

HOUSE BILL 191

Introduced by Stang, et al.

1/16	Introduced
1/16	Referred to Business & Economic Development
1/25	Hearing
2/08	Committee Report--Bill Passed as Amended
2/10	2nd Reading Passed
2/13	3rd Reading Passed

Transmitted to Senate

2/14	Referred to Business & Industry
3/06	Hearing
3/08	Committee Report--Bill Not Concurred
3/08	Adverse committee Report Adopted

1 *HOUSE* BILL NO. *191* *Peterson*  
 2 INTRODUCED BY *Steve Peterson* *HARP* *Bob Brown*  
 3 *Sarkofsky* *Clough* *Craig* *Smith* *Mace* *Gilbert* *DeVlin*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE LIMITS ON  
 5 DISTANCE OF DRIVE-IN OR WALK-UP FACILITIES FROM BANKS AND  
 6 THRIFT INSTITUTIONS; REVISING GEOGRAPHIC LIMITS ON USE OF  
 7 SATELLITE TERMINALS BY FINANCIAL INSTITUTIONS; AND AMENDING  
 8 SECTIONS 32-1-372, 32-2-271, 32-6-202, AND 32-6-204, MCA."  
 9 *Meyer*

10 WHEREAS, the Legislature finds that a detached drive-in  
 11 or walk-up facility provides useful teller services to bank  
 12 customers without harm to the important public policies  
 13 underlying Montana's unit banking laws and that, consistent  
 14 with those policies, a detached facility could be located at  
 15 somewhat greater distance from a main banking house; and

16 WHEREAS, the Legislature also finds it to be beneficial  
 17 to allow extended usage of detached facilities on equal  
 18 terms by banks and thrift institutions and to allow banks  
 19 and thrift institutions to consider the use of automated  
 20 teller machines as additions to their paying and receiving  
 21 facilities.

22  
 23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 **Section 1.** Section 32-1-372, MCA, is amended to read:

25 "32-1-372. Branch bank prohibited -- exceptions. (1)

1 No bank may maintain any branch bank, receive deposits, or  
 2 pay checks except over the counter of and in its own banking  
 3 house, provided that nothing in this section prohibits  
 4 ordinary clearinghouse transactions between banks.

5 (2) With the prior approval of the department, any  
 6 bank doing business in this state may establish and maintain  
 7 within the corporate limits of the city or town where its  
 8 main banking house is located not more than one detached  
 9 drive-in and walk-up facility consisting of one or more  
 10 teller windows. The distance of the facility from the main  
 11 banking house may not exceed 1,000 feet in a city or town  
 12 with a population of less than 20,000 and 3,000 feet in a  
 13 city with a population of 20,000 or more, as determined in  
 14 the most recently completed federal decennial census and  
 15 measured in a straight line from the closest point of the  
 16 main banking house to the farthest point of the detached  
 17 facility. The facility may not be closer than 200 feet to a  
 18 facility operated by any other bank or thrift institution or  
 19 closer than 300 feet to the main banking house of any other  
 20 bank or thrift institution, the measurement to be made in a  
 21 straight line from the closest points of the closest  
 22 structures involved. The distances herein specified in  
 23 relation to a facility operated by any other bank or thrift  
 24 institution and in relation to the main banking house of any  
 25 other bank or thrift institution may be decreased by mutual

written agreement of the banks or thrift institutions involved to not closer than 150 feet to a facility operated by any other bank or thrift institution or closer than 200 feet to the main banking house of any other bank,--the or thrift institution. The measurement to must be made in a straight line from the closest points of the closest structures involved. The service of the facility shall be limited to receiving deposits of every kind, cashing checks or orders to pay, receiving payments payable at the bank, and such other transactions as are normally and usually conducted or handled at teller windows in the main banking house.

(3) With the prior approval of the department, any bank doing business in Montana may establish and maintain a detached drive-in or walk-up facility consisting of one or more teller windows or satellite terminals:

(a) in a community:

(i) in the same county as its main banking house; or

(ii) within 25 miles of its main banking house, except that under this subsection (a) the site of the detached drive-in or walk-up facility may be no closer than 10 miles to the main banking house of another bank or a thrift institution; or

(b) provided that the acquiring bank is not a bank holding company domiciled outside Montana within the meaning

of 12 U.S.C. 1842, in a community in which it has acquired from the department the assets:

(i) of a failed bank as provided in 32-1-515; or

(ii) of a failed thrift institution as provided in 32-2-309.

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

(b) A satellite terminal other than a point-of-sale terminal may not be closer than 200 feet to a facility operated by any other bank or closer than 300 feet to the main banking house of any other bank, the measurement to be made in a straight line between the closest points of the closest structures involved. The distances herein specified in relation to a facility operated by any other bank and in relation to the main banking house of any other bank may be decreased by mutual written agreement of the banks involved to not closer than 150 feet to a facility operated by any other bank or closer than 200 feet to the main banking house of any other bank, the measurement to be made in a straight

line between the closest points of the closest structures involved.

(5) As used in this section, the following definitions apply:

(a) "Community" means an incorporated city or town or a census enumerator district, as used in the federal decennial census, no part of which is an incorporated city or town.

(b) "Main banking house" means an office of a bank or a thrift institution in a county where a majority of the directors holding full voting authority over all lending decisions are domiciled.

(c) "Thrift institution" means a building and loan association as defined in 32-2-101 or a federal savings and loan association.

(6) No detached drive-in or walk-up facility that was approved by the department before [the effective date of this act] may be found to violate any provision of subsection (2) because of the facility's proximity to a thrift institution or detached facility of a thrift institution."

**Section 2.** Section 32-2-271, MCA, is amended to read:

"32-2-271. Consolidation and transfer -- branching prohibited. (1) Only building and loan associations organized and chartered under the laws of the state of

Montana may, with the approval of the department, consolidate and become incorporated in one body, with or without any dissolution or division of the funds or property of any of them. Any association may transfer its engagements, funds, and property to any other association upon terms agreed upon by a majority vote of the respective board of directors and ratified by a two-thirds vote of the shares or members owning at least two-thirds of the withdrawable deposits in the association, present and voting in person or by proxy at a special meeting or meetings of the stockholders or members of the respective associations convened for that purpose, upon notice given as provided by law; the notice to state the object of the meeting. A transfer may not prejudice any right of any creditor of the association.

(2) Branching by merger or branching otherwise between ~~a building and loan association~~ associations organized and chartered under the laws of Montana ~~and--a~~ or between building and loan ~~association~~ associations organized and chartered under the laws of Montana and of any other state is prohibited. Branching de novo in Montana by a ~~foreign-chartered~~ building and loan association is prohibited.

(3) The establishment of a drive-in or walk-up facility as provided in 32-1-372(2) or (3) is not branching.

1       †3†(4) Insofar as this section limits or reduces the  
2       rights, powers, or privileges of building and loan  
3       associations previously granted by law, it shall apply only  
4       to proposed consolidations or mergers of associations which  
5       are initiated by action taken by their board of directors  
6       and shareholders subsequent to April 14, 1977."

7       **Section 3.** Section 32-6-202, MCA, is amended to read:

8       "32-6-202. Authorization for certain satellite  
9       terminals required. (1) Subject to the limitation expressed  
10      in 32-6-204 and to the other requirements of this chapter, a  
11      business entity owned by a financial institution or  
12      financial institutions may install and maintain satellite  
13      terminals located within ~~or not more than 3 miles beyond the~~  
14      ~~incorporated---municipality---where---each---participating~~  
15      ~~institution---maintains---its---office---or,---if---the---financial~~  
16      ~~institution---is---located---outside---an---incorporated---municipality,~~  
17      ~~then---not---more---than---3---miles---from---its---principal---place---of~~  
18      ~~business,---after---first---obtaining---authorization---from---the~~  
19      ~~department---pursuant---to---rules---adopted---by---the---department~~ a  
20      county in which the principal place of business, main  
21      banking house, or a branch is located or within 25 miles of  
22      its main banking house. Business organizations other than  
23      financial institutions may own satellite terminals,  
24      provided, however, that such organizations shall not engage  
25      in the business of a financial institution and that

1       ownership and possession of such satellite terminals shall  
2       be regulated by the department and they shall not be used  
3       for any purpose other than is authorized in this chapter.

4       (2) A merchant may install and operate a point-of-sale  
5       terminal. A merchant may utilize a machine as a  
6       point-of-sale terminal, which machine performs functions in  
7       addition to electronic funds transfer if such other  
8       functions do not violate the provisions of this chapter.

9       **Section 4.** Section 32-6-204, MCA, is amended to read:

10      "32-6-204. Geographical restrictions on certain  
11      satellite terminals. (1) If a financial institution is a  
12      bank, savings and loan association, or a credit union, it  
13      may engage in electronic funds transfers by means of an  
14      automated teller machine located within ~~or not more than 3~~  
15      ~~miles beyond the municipality where its office is located~~  
16      ~~or, if the financial institution is located outside any~~  
17      ~~incorporated municipality, not more than 3 miles from its~~  
18      principal place of business a county in which the principal  
19      place of business, main banking house, or a branch is  
20      located or within 25 miles of its main banking house.

21      (2) Any financial institution or its customers may use  
22      any automated teller machine located in this state,  
23      regardless of its ownership, to perform electronic funds  
24      transfers under terms and conditions mutually agreeable to  
25      the owner of the automated teller machine and the other user

1 and pursuant to 32-6-203(1).

2 (3) The department may authorize the operation of an  
3 automated teller machine which a financial institution uses  
4 only if such institution complies with this chapter and  
5 regulations adopted by the department.

6 (4) No out-of-state financial institution may  
7 establish a satellite terminal within the state or lease  
8 through other businesses satellite terminals within Montana.  
9 An out-of-state financial institution may not engage in  
10 electronic funds transfers within the state, except that a  
11 customer of an out-of-state financial institution may:

12 (a) debit his account in an out-of-state financial  
13 institution at an in-state satellite terminal:

14 (i) in order to withdraw cash; or

15 (ii) to pay for merchandise and services, provided the  
16 merchant credits an account in a financial institution whose  
17 principal place of business is located within the state; or

18 (b) make inquiry as to his account balance.

19 (5) Point-of-sale terminals may be available to all  
20 customers authorized by in-state financial institutions for  
21 debiting accounts to pay for merchandise and services."

22 NEW SECTION. Section 5. Saving clause. [This act]  
23 does not affect rights and duties that matured, penalties  
24 that were incurred, or proceedings that were begun before  
25 [the effective date of this act].

1 NEW SECTION. Section 6. Extension of authority. Any  
2 existing authority to make rules on the subject of the  
3 provisions of [this act] is extended to the provisions of  
4 [this act].

-End-

APPROVED BY COMM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

## HOUSE BILL NO. 191

INTRODUCED BY STANG, GLASER, HARP, B. BROWN, PETERSON,  
DARKO, STRIZICH, VAUGHN, NATHE, CODY, SMITH, BECK, MERCER,  
GILBERT, DEVLIN, BOHARSKI, PATTERSON, BOYLAN, MEYER, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE FUNCTIONS  
OF AND THE LIMITS ON DISTANCE OF DRIVE-IN OR WALK-UP  
FACILITIES FROM BANKS AND THRIFT INSTITUTIONS; REVISING  
GEOGRAPHIC LIMITS ON USE OF SATELLITE TERMINALS BY FINANCIAL  
INSTITUTIONS; AND AMENDING SECTIONS 32-1-372, 32-2-111,  
32-2-271, 32-6-202, AND 32-6-204, MCA."

## STATEMENT OF INTENT

A statement of intent is required for this bill because  
it allows the department of commerce to adopt rules defining  
the scope of services that banks and state-chartered thrift  
institutions may offer in extended teller facilities a  
number of miles from the main banking house. The intention  
of the legislature is that the department's rules confine  
the services allowed at extended teller facilities to those  
normally conducted at teller windows in the main banking  
house. The legislature intends, however, that the department  
be cognizant of modern communications technology, such as  
facsimile transmission and modem-linked computers, in  
defining what is normal and usual at a teller window. The

department shall acknowledge that a teller is able to  
communicate with a bank officer and gain electronic  
authorization to open accounts, issue checks for approved  
loans, and perform other similar duties.

WHEREAS, the Legislature finds that a detached drive-in  
or walk-up facility provides useful teller services to bank  
customers without harm to the important public policies  
underlying Montana's unit banking laws and that, consistent  
with those policies, a detached facility could be located at  
somewhat greater distance from a main banking house; and

WHEREAS, the Legislature also finds it to be beneficial  
to allow extended usage of detached facilities on equal  
terms by banks and thrift institutions and to allow banks  
and thrift institutions to consider the use department be  
cognizant of modern communications technology, such as  
facsimile transmission and modem-linked computers, in  
defining what is normal and usual at a teller window. The  
department shall acknowledge that a teller is able to  
communicate with a bank officer and gain electronic  
authorization to open accounts, issue checks for approved  
loans, and perform other similar duties.

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

**Section 1.** Section 32-1-372, MCA, is amended to read:

\*32-1-372. Branch bank prohibited -- exceptions. (1)

No bank may maintain any branch bank, receive deposits, or pay checks except over the counter of and in its own banking house, provided that nothing in this section prohibits ordinary clearinghouse transactions between banks.

(2) With the prior approval of the department, any bank doing business in this state may establish and maintain within the corporate limits of the city or town where its main banking house is located not more than one detached drive-in and walk-up facility consisting of one or more teller windows. The distance of the facility from the main banking house may not exceed 1,000 feet in a city or town with a population of less than 20,000 and 3,000 feet in a city with a population of 20,000 or more, as determined in the most recently completed federal decennial census and measured in a straight line from the closest point of the main banking house to the farthest point of the detached facility. The facility may not be closer than 200 feet to a facility operated by any other bank or thrift institution or closer than 300 feet to the main banking house of any other bank or thrift institution, the measurement to be made in a straight line from the closest points of the closest structures involved. The distances herein specified in relation to a facility operated by any other bank or thrift institution and in relation to the main banking house of any

other bank or thrift institution may be decreased by mutual written agreement of the banks or thrift institutions involved to not closer than 150 feet to a facility operated by any other bank or thrift institution or closer than 200 feet to the main banking house of any other bank, ~~the~~ or thrift institution. The measurement to must be made in a straight line from the closest points of the closest structures involved. The service of the facility shall be limited to receiving deposits of every kind, cashing checks or orders to pay, receiving payments payable at the bank, and such other transactions as are normally and usually conducted or handled at teller windows in the main banking house.

(3) With the prior approval of the department, any bank doing business in Montana may establish and maintain ~~a detached-drive-in-or-walk-up~~ AN EXTENDED TELLER facility consisting of one or more teller windows or satellite terminals:

(a) in a community:

(i) in the same county as its main banking house; or

(ii) within 25 miles of its main banking house, except

that under this subsection (a) the site of the detached drive-in--or--walk-up EXTENDED TELLER facility may be no closer than 10 miles to the main banking house of another bank or a thrift institution; or



(b) provided that the acquiring bank is not a bank holding company domiciled outside Montana within the meaning of 12 U.S.C. 1842, in a community in which it has acquired from the department OR FROM AN AGENCY OF THE FEDERAL GOVERNMENT the assets:

(i) of a failed bank as provided in 32-1-515; or

(ii) of a failed thrift institution as provided in 32-2-309.

~~(3)~~(4) (a) Any bank authorized to do banking business in this state may utilize a satellite terminal as defined in the Montana Electronic Funds Transfer Act and at any location permitted by the Montana Electronic Funds Transfer Act or by this section. The use of satellite terminals hereby authorized shall not be subject to the restrictions on location, transaction, or number applicable to detached drive-in, walk-up, or teller facilities.

(b) A satellite terminal other than a point-of-sale terminal may not be closer than 200 feet to a facility operated by any other bank or closer than 300 feet to the main banking house of any other bank, the measurement to be made in a straight line between the closest points of the closest structures involved. The distances herein specified in relation to a facility operated by any other bank and in relation to the main banking house of any other bank may be decreased by mutual written agreement of the banks involved

to not closer than 150 feet to a facility operated by any other bank or closer than 200 feet to the main banking house of any other bank, the measurement to be made in a straight line between the closest points of the closest structures involved.

(5) As used in this section, the following definitions apply:

(a) "Community" means an incorporated city or town or a census enumerator district, as used in the federal decennial census, no part of which is an incorporated city or town.

(B) "EXTENDED TELLER FACILITY" MEANS AN OFFICE OF A BANK PHYSICALLY SEPARATE FROM THE PREMISES OF THE MAIN BANKING HOUSE IN WHICH THE BANK MAY TRANSACT ANY BUSINESS ALLOWED IN A DETACHED DRIVE-IN OR WALK-UP FACILITY AND ANY ADDITIONAL BUSINESS THAT THE DEPARTMENT MAY BY RULE AUTHORIZE, BUT THE DEPARTMENT MAY NOT AUTHORIZE A BANK TO PLACE SAFE DEPOSIT BOXES IN AN EXTENDED TELLER FACILITY OR TO ASSIGN ACCOUNT NUMBERS OR TO OPEN ESCROW ACCOUNTS IN THOSE FACILITIES.

~~(b)~~(C) "Main banking house" means an THE PRINCIPAL office of a bank or a thrift institution in a county where a majority AT LEAST TWO of the directors holding full voting authority over all lending decisions are domiciled.

~~(c)~~(D) "Thrift institution" means a building and loan

association as defined in 32-2-101 or a federal savings and loan association.

(6) No detached drive-in or walk-up facility that was approved by the department before [the effective date of this act] may be found to violate any provision of subsection (2) because of the facility's proximity to a thrift institution or detached facility of a thrift institution, OR BECAUSE OF THE DOMICILE OF THE DIRECTORS OF THE BANK."

**Section 2.** Section 32-2-271, MCA, is amended to read:

"32-2-271. Consolidation and transfer -- branching prohibited. (1) Only building and loan associations organized and chartered under the laws of the state of Montana may, with the approval of the department, consolidate and become incorporated in one body, with or without any dissolution or division of the funds or property of any of them. Any association may transfer its engagements, funds, and property to any other association upon terms agreed upon by a majority vote of the respective board of directors and ratified by a two-thirds vote of the shares or members owning at least two-thirds of the withdrawable deposits in the association, present and voting in person or by proxy at a special meeting or meetings of the stockholders or members of the respective associations convened for that purpose, upon notice given as provided by

law; the notice to state the object of the meeting. A transfer may not prejudice any right of any creditor of the association.

(2) Branching by merger or branching otherwise between a building and loan ~~association~~ associations organized and chartered under the laws of Montana ~~and--a~~ or between building and loan ~~association~~ associations organized and chartered under the laws of Montana and of any other state is prohibited. Branching de novo in Montana by a ~~foreign-chartered~~ building and loan association is prohibited.

(3) The establishment of a--drive-in--or--walk-up AN EXTENDED TELLER facility as provided in 32-1-372(2) or (3) is not branching AND IS PERMITTED.

(4) Insofar as this section limits or reduces the rights, powers, or privileges of building and loan associations previously granted by law, it shall apply only to proposed consolidations or mergers of associations which are initiated by action taken by their board of directors and shareholders subsequent to April 14, 1977."

**SECTION 3. SECTION 32-2-111, MCA, IS AMENDED TO READ:**

"32-2-111. Equality of rights. With the approval of the department, a building and loan association chartered pursuant to the laws of this state may exercise or possess any right, power, privilege, benefit, immunity, or

1 exemption, other than those limited under 32-2-271,  
 2 possessed by a federal savings and loan association doing  
 3 business in this state that is now provided or that may be  
 4 provided after April 29, 1981, by the laws of the United  
 5 States or regulations of the federal home loan bank board.  
 6 This grant is in addition to grants provided in and takes  
 7 priority over any statute of this state other than 32-2-271.  
 8 The department may exercise the discretion granted in this  
 9 section by issuance of a special order upon written request  
 10 from any state-chartered building and loan association with  
 11 respect to any particular item and may grant such request  
 12 upon such conditions as it ~~shall-determine~~ determines are in  
 13 the best interest of the members or depositors of the  
 14 association and of the general public. The department shall  
 15 require any state-chartered building and loan association  
 16 seeking such special orders to obtain and maintain insurance  
 17 of accounts acceptable to the department, excluding alien  
 18 insurers."

19 **Section 4.** Section 32-6-202, MCA, is amended to read:

20 "32-6-202. Authorization for certain satellite  
 21 terminals required. (1) Subject to the limitation expressed  
 22 in 32-6-204 and to the other requirements of this chapter, a  
 23 business entity owned by a financial institution or  
 24 financial institutions may install and maintain satellite  
 25 terminals located within ~~or-not-more-than-3-miles-beyond-the~~

1 ~~incorporated---municipality---where---each---participating~~  
 2 ~~institution--maintains--its--office--or,--if--the--financial~~  
 3 ~~institution-is-located-outside-an-incorporated-municipality,~~  
 4 ~~then--not--more--than--3--miles--from-its-principal-place-of~~  
 5 ~~business,--after--first--obtaining--authorization--from--the~~  
 6 ~~department--pursuant--to--rules--adepted-by-the-department a~~  
 7 ~~county in which the principal place of business, main~~  
 8 ~~banking house, or a branch is located or within 25 miles of~~  
 9 ~~its main banking house.~~ Business organizations other than  
 10 financial institutions may own satellite terminals,  
 11 provided, however, that such organizations shall not engage  
 12 in the business of a financial institution and that  
 13 ownership and possession of such satellite terminals shall  
 14 be regulated by the department and they shall not be used  
 15 for any purpose other than is authorized in this chapter.

16 (2) A merchant may install and operate a point-of-sale  
 17 terminal. A merchant may utilize a machine as a  
 18 point-of-sale terminal, which machine performs functions in  
 19 addition to electronic funds transfer if such other  
 20 functions do not violate the provisions of this chapter."

21 **Section 5.** Section 32-6-204, MCA, is amended to read:

22 "32-6-204. Geographical restrictions on certain  
 23 satellite terminals. (1) If a financial institution is a  
 24 bank, savings and loan association, or a credit union, it  
 25 may engage in electronic funds transfers by means of an

1 automated teller machine located within or-not-more--than--3  
 2 miles--beyond--the--municipality-where-its-office-is-located  
 3 or--if-the-financial--institution--is--located--outside--any  
 4 incorporated--municipality,--not--more-than-3-miles-from-its  
 5 principal-place-of-business a county in which the principal  
 6 place of business, main banking house, or a branch is  
 7 located or within 25 miles of its main banking house.

8 (2) Any financial institution or its customers may use  
 9 any automated teller machine located in this state,  
 10 regardless of its ownership, to perform electronic funds  
 11 transfers under terms and conditions mutually agreeable to  
 12 the owner of the automated teller machine and the other user  
 13 and pursuant to 32-6-203(1).

14 (3) The department may authorize the operation of an  
 15 automated teller machine which a financial institution uses  
 16 only if such institution complies with this chapter and  
 17 regulations adopted by the department.

18 (4) No out-of-state financial institution may  
 19 establish a satellite terminal within the state or lease  
 20 through other businesses satellite terminals within Montana.  
 21 An out-of-state financial institution may not engage in  
 22 electronic funds transfers within the state, except that a  
 23 customer of an out-of-state financial institution may:

24 (a) debit his account in an out-of-state financial  
 25 institution at an in-state satellite terminal:

1 (i) in order to withdraw cash; or

2 (ii) to pay for merchandise and services, provided the  
 3 merchant credits an account in a financial institution whose  
 4 principal place of business is located within the state; or

5 (b) make inquiry as to his account balance.

6 (5) Point-of-sale terminals may be available to all  
 7 customers authorized by in-state financial institutions for  
 8 debiting accounts to pay for merchandise and services."

9 NEW SECTION. Section 6. Saving clause. [This act]  
 10 does not affect rights and duties that matured, penalties  
 11 that were incurred, or proceedings that were begun before  
 12 [the effective date of this act].

13 NEW SECTION. Section 7. Extension of authority. Any  
 14 existing authority to make rules on the subject of the  
 15 provisions of [this act] is extended to the provisions of  
 16 [this act].

-End-

## 1 HOUSE BILL NO. 191

2 INTRODUCED BY STANG, GLASER, HARP, B. BROWN, PETERSON,  
3 DARKO, STRIZICH, VAUGHN, NATHE, CODY, SMITH, BECK, MERCER,  
4 GILBERT, DEVLIN, BOHARSKI, PATTERSON, BOYLAN, MEYER, WALKER

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6 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE FUNCTIONS  
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8 FACILITIES FROM BANKS AND THRIFT INSTITUTIONS; REVISING  
9 GEOGRAPHIC LIMITS ON USE OF SATELLITE TERMINALS BY FINANCIAL  
10 INSTITUTIONS; AND AMENDING SECTIONS 32-1-372, 32-2-111,  
11 32-2-271, 32-6-202, AND 32-6-204, MCA."

## 12 STATEMENT OF INTENT

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14 A statement of intent is required for this bill because  
15 it allows the department of commerce to adopt rules defining  
16 the scope of services that banks and state-chartered thrift  
17 institutions may offer in extended teller facilities a  
18 number of miles from the main banking house. The intention  
19 of the legislature is that the department's rules confine  
20 the services allowed at extended teller facilities to those  
21 normally conducted at teller windows in the main banking  
22 house. The legislature intends, however, that the department  
23 be cognizant of modern communications technology, such as  
24 facsimile transmission and modem-linked computers, in  
25 defining what is normal and usual at a teller window. The

1 department shall acknowledge that a teller is able to  
2 communicate with a bank officer and gain electronic  
3 authorization to open accounts, issue checks for approved  
4 loans, and perform other similar duties.  
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6 WHEREAS, the Legislature finds that a detached drive-in  
7 or walk-up facility provides useful teller services to bank  
8 customers without harm to the important public policies  
9 underlying Montana's unit banking laws and that, consistent  
10 with those policies, a detached facility could be located at  
11 somewhat greater distance from a main banking house; and

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14 terms by banks and thrift institutions and to allow banks  
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16 cognizant of modern communications technology, such as  
17 facsimile transmission and modem-linked computers, in  
18 defining what is normal and usual at a teller window. The  
19 department shall acknowledge that a teller is able to  
20 communicate with a bank officer and gain electronic  
21 authorization to open accounts, issue checks for approved  
22 loans, and perform other similar duties.  
23

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

25 Section 1. Section 32-1-372, MCA, is amended to read:

1 "32-1-372. Branch bank prohibited -- exceptions. (1)

2 No bank may maintain any branch bank, receive deposits, or  
3 pay checks except over the counter of and in its own banking  
4 house, provided that nothing in this section prohibits  
5 ordinary clearinghouse transactions between banks.

6 (2) With the prior approval of the department, any  
7 bank doing business in this state may establish and maintain  
8 within the corporate limits of the city or town where its  
9 main banking house is located not more than one detached  
10 drive-in and walk-up facility consisting of one or more  
11 teller windows. The distance of the facility from the main  
12 banking house may not exceed 1,000 feet in a city or town  
13 with a population of less than 20,000 and 3,000 feet in a  
14 city with a population of 20,000 or more, as determined in  
15 the most recently completed federal decennial census and  
16 measured in a straight line from the closest point of the  
17 main banking house to the farthest point of the detached  
18 facility. The facility may not be closer than 200 feet to a  
19 facility operated by any other bank or thrift institution or  
20 closer than 300 feet to the main banking house of any other  
21 bank or thrift institution, the measurement to be made in a  
22 straight line from the closest points of the closest  
23 structures involved. The distances herein specified in  
24 relation to a facility operated by any other bank or thrift  
25 institution and in relation to the main banking house of any

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

14 (3) With the prior approval of the department, any  
15 bank doing business in Montana may establish and maintain a  
16 detached-drive-in-or-walk-up AN EXTENDED TELLER facility  
17 consisting of one or more teller windows or satellite  
18 terminals:

19 (a) in a community:

20 (i) in the same county as its main banking house; or

21 (ii) within 25 miles of its main banking house, except

22 that under this subsection (a) the site of the detached  
23 drive-in--or--walk-up EXTENDED TELLER facility may be no  
24 closer than 10 miles to the main banking house of another  
25 bank or a thrift institution; or

(b) provided that the acquiring bank is not a bank holding company domiciled outside Montana within the meaning of 12 U.S.C. 1842, in a community in which it has acquired from the department OR FROM AN AGENCY OF THE FEDERAL GOVERNMENT the assets:

(i) of a failed bank as provided in 32-1-515; or

(ii) of a failed thrift institution as provided in 32-2-309.

~~(3)~~(4) (a) Any bank authorized to do banking business in this state may utilize a satellite terminal as defined in the Montana Electronic Funds Transfer Act and at any location permitted by the Montana Electronic Funds Transfer Act or by this section. The use of satellite terminals hereby authorized shall not be subject to the restrictions on location, transaction, or number applicable to detached drive-in, walk-up, or teller facilities.

(b) A satellite terminal other than a point-of-sale terminal may not be closer than 200 feet to a facility operated by any other bank or closer than 300 feet to the main banking house of any other bank, the measurement to be made in a straight line between the closest points of the closest structures involved. The distances herein specified in relation to a facility operated by any other bank and in relation to the main banking house of any other bank may be decreased by mutual written agreement of the banks involved

to not closer than 150 feet to a facility operated by any other bank or closer than 200 feet to the main banking house of any other bank, the measurement to be made in a straight line between the closest points of the closest structures involved.

(5) As used in this section, the following definitions apply:

(a) "Community" means an incorporated city or town or a census enumerator district, as used in the federal decennial census, no part of which is an incorporated city or town.

(B) "EXTENDED TELLER FACILITY" MEANS AN OFFICE OF A BANK PHYSICALLY SEPARATE FROM THE PREMISES OF THE MAIN BANKING HOUSE IN WHICH THE BANK MAY TRANSACT ANY BUSINESS ALLOWED IN A DETACHED DRIVE-IN OR WALK-UP FACILITY AND ANY ADDITIONAL BUSINESS THAT THE DEPARTMENT MAY BY RULE AUTHORIZE, BUT THE DEPARTMENT MAY NOT AUTHORIZE A BANK TO PLACE SAFE DEPOSIT BOXES IN AN EXTENDED TELLER FACILITY OR TO ASSIGN ACCOUNT NUMBERS OR TO OPEN ESCROW ACCOUNTS IN THOSE FACILITIES.

~~(b)~~(C) "Main banking house" means an THE PRINCIPAL office of a bank or a thrift institution in a county where a majority AT LEAST TWO of the directors holding full voting authority over all lending decisions are domiciled.

~~(c)~~(D) "Thrift institution" means a building and loan

association as defined in 32-2-101 or a federal savings and loan association.

(6) No detached drive-in or walk-up facility that was approved by the department before [the effective date of this act] may be found to violate any provision of subsection (2) because of the facility's proximity to a thrift institution or detached facility of a thrift institution, OR BECAUSE OF THE DOMICILE OF THE DIRECTORS OF THE BANK."

**Section 2.** Section 32-2-271, MCA, is amended to read:

"32-2-271. Consolidation and transfer -- branching prohibited. (1) Only building and loan associations organized and chartered under the laws of the state of Montana may, with the approval of the department, consolidate and become incorporated in one body, with or without any dissolution or division of the funds or property of any of them. Any association may transfer its engagements, funds, and property to any other association upon terms agreed upon by a majority vote of the respective board of directors and ratified by a two-thirds vote of the shares or members owning at least two-thirds of the withdrawable deposits in the association, present and voting in person or by proxy at a special meeting or meetings of the stockholders or members of the respective associations convened for that purpose, upon notice given as provided by

law; the notice to state the object of the meeting. A transfer may not prejudice any right of any creditor of the association.

(2) Branching by merger or branching otherwise between a building and loan association associations organized and chartered under the laws of Montana and--a or between building and loan association associations organized and chartered under the laws of Montana and of any other state is prohibited. Branching de novo in Montana by a foreign-chartered building and loan association is prohibited.

(3) The establishment of a--drive-in--or--walk-up AN EXTENDED TELLER facility as provided in 32-1-372(2) or (3) is not branching AND IS PERMITTED.

~~†3†~~(4) Insofar as this section limits or reduces the rights, powers, or privileges of building and loan associations previously granted by law, it shall apply only to proposed consolidations or mergers of associations which are initiated by action taken by their board of directors and shareholders subsequent to April 14, 1977."

**SECTION 3. SECTION 32-2-111, MCA, IS AMENDED TO READ:**

"32-2-111. Equality of rights. With the approval of the department, a building and loan association chartered pursuant to the laws of this state may exercise or possess any right, power, privilege, benefit, immunity, or



1 exemption, other than those limited under 32-2-271,  
 2 possessed by a federal savings and loan association doing  
 3 business in this state that is now provided or that may be  
 4 provided after April 29, 1981, by the laws of the United  
 5 States or regulations of the federal home loan bank board.  
 6 This grant is in addition to grants provided in and takes  
 7 priority over any statute of this state other than 32-2-271.  
 8 The department may exercise the discretion granted in this  
 9 section by issuance of a special order upon written request  
 10 from any state-chartered building and loan association with  
 11 respect to any particular item and may grant such request  
 12 upon such conditions as it ~~shall determine~~ determines are in  
 13 the best interest of the members or depositors of the  
 14 association and of the general public. The department shall  
 15 require any state-chartered building and loan association  
 16 seeking such special orders to obtain and maintain insurance  
 17 of accounts acceptable to the department, excluding alien  
 18 insurers."

19 **Section 4.** Section 32-6-202, MCA, is amended to read:

20 "32-6-202. Authorization for certain satellite  
 21 terminals required. (1) Subject to the limitation expressed  
 22 in 32-6-204 and to the other requirements of this chapter, a  
 23 business entity owned by a financial institution or  
 24 financial institutions may install and maintain satellite  
 25 terminals located within ~~or-not-more-than-3-miles-beyond-the~~

1 ~~incorporated---municipality---where---each---participating~~  
 2 ~~institution---maintains---its---office---or,---if---the---financial~~  
 3 ~~institution-is-located-outside-an-incorporated-municipality,~~  
 4 ~~then---not---more---than---3---miles---from-its-principal-place-of~~  
 5 ~~business,---after---first---obtaining---authorization---from---the~~  
 6 ~~department---pursuant---to---rules---adopted-by-the-department a~~  
 7 ~~county in which the principal place of business, main~~  
 8 ~~banking house, or a branch is located or within 25 miles of~~  
 9 ~~its main banking house.~~ Business organizations other than  
 10 financial institutions may own satellite terminals,  
 11 provided, however, that such organizations shall not engage  
 12 in the business of a financial institution and that  
 13 ownership and possession of such satellite terminals shall  
 14 be regulated by the department and they shall not be used  
 15 for any purpose other than is authorized in this chapter.

16 (2) A merchant may install and operate a point-of-sale  
 17 terminal. A merchant may utilize a machine as a  
 18 point-of-sale terminal, which machine performs functions in  
 19 addition to electronic funds transfer if such other  
 20 functions do not violate the provisions of this chapter."

21 **Section 5.** Section 32-6-204, MCA, is amended to read:

22 "32-6-204. Geographical restrictions on certain  
 23 satellite terminals. (1) If a financial institution is a  
 24 bank, savings and loan association, or a credit union, it  
 25 may engage in electronic funds transfers by means of an

~~automated teller machine located within or not more than 3 miles beyond the municipality where its office is located or, if the financial institution is located outside any incorporated municipality, not more than 3 miles from its principal place of business~~ a county in which the principal place of business, main banking house, or a branch is located or within 25 miles of its main banking house.

(2) Any financial institution or its customers may use any automated teller machine located in this state, regardless of its ownership, to perform electronic funds transfers under terms and conditions mutually agreeable to the owner of the automated teller machine and the other user and pursuant to 32-6-203(1).

(3) The department may authorize the operation of an automated teller machine which a financial institution uses only if such institution complies with this chapter and regulations adopted by the department.

(4) No out-of-state financial institution may establish a satellite terminal within the state or lease through other businesses satellite terminals within Montana. An out-of-state financial institution may not engage in electronic funds transfers within the state, except that a customer of an out-of-state financial institution may:

(a) debit his account in an out-of-state financial institution at an in-state satellite terminal:

- (i) in order to withdraw cash; or
- (ii) to pay for merchandise and services, provided the merchant credits an account in a financial institution whose principal place of business is located within the state; or
- (b) make inquiry as to his account balance.
- (5) Point-of-sale terminals may be available to all customers authorized by in-state financial institutions for debiting accounts to pay for merchandise and services."

NEW SECTION. **Section 6. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 7. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-