

HOUSE BILL NO. 218

INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT. FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. STATEMENT OF INTENT ADOPTED.
JANUARY 28, 1989	PRINTING REPORT.
JANUARY 30, 1989	SECOND READING, DO PASS.
JANUARY 31, 1989	ENGROSSING REPORT.
FEBRUARY 1, 1989	THIRD READING, PASSED. AYES, 94; NOES, 3. TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY. FIRST READING.
MARCH 7, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 8, 1989	SECOND READING, CONCURRED IN.
MARCH 10, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 0. RETURNED TO HOUSE.

MARCH 11, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 218
2 INTRODUCED BY J. Brown
3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS
6 RELATING TO FINANCIAL INSTITUTIONS; REVISING CHARGES FOR
7 EXAMINATION OF FINANCIAL INSTITUTIONS; REDEFINING INVESTMENT
8 IN CAPITAL STOCKS; ALLOWING INVESTMENT IN CERTAIN
9 SECURITIES; CLARIFYING ISSUANCE OF DRAFTS; AMENDING SECTIONS
10 32-1-215, 32-1-422, 32-1-433, AND 32-1-437, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
12

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

14 **Section 1.** Section 32-1-215, MCA, is amended to read:

15 "32-1-215. Special examinations and fees. Special
16 examinations may be made of a bank, trust company,
17 investment company, building and loan association, or credit
18 union when in the judgment of the department it is
19 considered necessary, and the special examination shall be
20 charged for at the a rate of \$100--a--day--for--each--person
21 engaged--in--the--examination that equals the department's
22 actual costs for examiner wages and travel expenses. All
23 special examination fees or charges shall be paid at the
24 conclusion of the examination, and the moneys collected by
25 the department shall be paid to the state treasurer for the

1 credit of the state special revenue fund for the use of the
2 department in its examination function."

3 **Section 2.** Section 32-1-422, MCA, is amended to read:

4 "32-1-422. Restriction on investment in corporate
5 stock. (1) No commercial or savings bank shall purchase or
6 invest its capital or surplus or money of its depositors, or
7 any part of either, in the capital stock of any corporation
8 unless the purchase or acquisition of ~~such~~ capital stock
9 ~~shall be~~ is necessary to prevent loss to the bank on a debt
10 previously contracted in good faith. Any capital stock so
11 purchased or acquired shall be sold by ~~such the~~ bank within
12 6 months thereafter, if it can be sold for the amount of the
13 claim of ~~such the~~ bank against it. All capital stock ~~thus~~
14 purchased or acquired must be sold for the best price
15 obtainable by ~~said the~~ bank within 1 year after such
16 purchase or acquisition, or if ~~such the~~ stock is
17 unmarketable, it shall be charged off as an investment loss,
18 which shall be equivalent to the stock's sale thereof. Every
19 person or corporation violating any provision of this
20 section shall forfeit to the state twice the nominal amount
21 of such stock.

22 (2) Notwithstanding subsection (1), a ~~commercial or~~
23 ~~savings bank may invest up to 20% of its capital and surplus~~
24 ~~in the capital stock of a bank service corporation organized~~
25 ~~solely for the purpose of providing services to banks~~

1 acquire and hold for its own account:

2 (a) up to 20% of its capital and surplus in the
3 capital stock of a bank service corporation organized solely
4 for the purpose of providing services to banks;

5 (b) shares of stock of a federal reserve bank, without
6 limitation of amount; and

7 (c) shares of stock in a Montana capital company
8 within limits prescribed by the Montana Capital Company Act.

9 (3) A bank may invest any amount up to 5% of its
10 unimpaired capital and surplus in shares of stock of:

11 (a) the federal national mortgage association;

12 (b) the federal home loan mortgage corporation;

13 (c) the federal agricultural mortgage corporation; and

14 (d) other corporations created pursuant to acts of
15 Congress to meet the agricultural, housing, health, transit,
16 educational, environmental, or similar needs of the nation
17 when the department determines that the investment is in the
18 public interest."

19 **Section 3.** Section 32-1-433, MCA, is amended to read:

20 "32-1-433. Limit-on-amount-of-bond-issue Investment in
21 certain securities. No-commercial-bank-may-purchase, agree
22 to-purchase, or underwrite any bond issue in excess of 50%
23 of its unimpaired capital and surplus, except general
24 obligation bonds of the United States, of the state of
25 Montana, or of the cities, towns, counties, or school

1 districts of this state. A bank may purchase, sell,
2 underwrite, and hold investment securities that are
3 obligations in the form of bonds, notes, or debentures, as
4 provided in rules adopted by the department. A bank may
5 hold without limit investment securities that are general
6 obligations of the United States, obligations that are
7 guaranteed fully as to principal and interest by the United
8 States, or general obligations of any state."

9 **Section 4.** Section 32-1-437, MCA, is amended to read:

10 "32-1-437. Acceptance and issuance of drafts and
11 letters of credit. Every bank organized and existing under
12 the laws of Montana shall have power and authority to accept
13 for payment at a future date drafts drawn upon it by its
14 customers and to issue letters of credit, authorizing
15 holders thereof to draw drafts upon it or its correspondents
16 at sight or on time, provided that the total amount of
17 drafts so accepted or letters of credit so issued for any
18 one person, firm, or corporation shall not at any one time
19 exceed 20% of the capital and surplus of the accepting or
20 issuing bank."

21 **NEW SECTION. Section 5.** Rulemaking authority. The
22 department shall adopt rules to implement [sections 2
23 through 4].

24 **NEW SECTION. Section 6.** Codification instruction.
25 [Section 5] is intended to be codified as an integral part

LC 0509/01

1 of Title 32, chapter 1, part 4, and the provisions of Title
2 32, chapter 1, part 4, apply to [section 5].

3 NEW SECTION. **Section 7.** Effective date. [This act] is
4 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB218, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


The act generally revises laws relating to financial institutions; revises charges for examination of financial institutions; redefines investment in capital stocks; allows investment in certain securities; clarifies issuance of drafts; and provides an immediate effective date.

ASSUMPTIONS:

1. Special examinations under 32-1-215, MCA, will be conducted by the Department of Commerce under current level expenditures.
2. Two special examinations are projected to be conducted annually at an average charge of \$1,500.

FISCAL IMPACT:

	FY 90			FY 91		
	Current law	Proposed law	Difference	Current law	Proposed law	Difference
Revenues:						
State Special Revenue						
Increase Assessments and Fees	\$3,000	\$3,000	\$ -0-	\$3,000	\$3,000	\$ -0-


RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/24/89
DATE


JAN BROWN, PRIMARY SPONSOR
DATE

1/24/89

Fiscal Note for HB218, as introduced

HB 218

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a revised Fiscal Note for HB218, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


The act generally revises laws relating to financial institutions; revises charges for examination of financial institutions; redefines investment in capital stocks; allows investment in certain securities; clarifies issuance of drafts; and provides an immediate effective date.

ASSUMPTIONS:

1. Special examinations under 32-1-215, MCA, will be conducted by the Department of Commerce under current level expenditures.
2. Two special examinations are projected to be conducted annually at an average charge of \$1,500.

FISCAL IMPACT:

	FY 90			FY 91		
	Current law	Proposed law	Difference	Current law	Proposed law	Difference
Revenues:						
State Special Revenue						
Increase Assessments and Fees	\$ -0-	\$3,000	\$3,000	\$ -0-	\$3,000	\$3,000


RAY SHACKLEFORD, BUDGET DIRECTOR 1/26/89
OFFICE OF BUDGET AND PROGRAM PLANNING DATE


JAN BROWN, PRIMARY SPONSOR 1/26/89
DATE

Revised Fiscal Note for HB218, as introduced**HB 218-Revised**

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 218

INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS
RELATING TO FINANCIAL INSTITUTIONS; REQUIRING A REPORT OF
EXAMINATION WITHIN 120 DAYS OF COMPLETION; REVISING CHARGES
FOR EXAMINATION OF FINANCIAL INSTITUTIONS; REDEFINING
INVESTMENT IN CAPITAL STOCKS; ALLOWING INVESTMENT IN CERTAIN
SECURITIES; CLARIFYING ISSUANCE OF DRAFTS; AMENDING SECTIONS
32-1-211, 32-1-215, 32-1-422, 32-1-433, AND 32-1-437, MCA;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because
it grants to the department of commerce authority to make
rules relative to allowing a bank to invest in capital stock
of certain corporations and removing the limit on certain
securities that a bank may hold. In structuring these
rules, the department shall consider the provisions of all
applicable statutes and rules. Charges allowed may not
exceed the actual costs, supported by documentation,
incurred in conducting special examinations. The rules must
provide adequate safeguards, in the form of substantiation
of the fiscal stability of the issuer, to ensure the

financial integrity of every quasi-governmental corporation
in which an investment is allowed. The rules may also
require evaluation to determine suitability of particular
investments. Paramount in any rule regarding bank
investments must be the safety of depositors funds.

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

SECTION 1. SECTION 32-1-211, MCA, IS AMENDED TO READ:**"32-1-211. Examination and supervision by department.**

(1) The department shall exercise constant supervision over
the books and affairs of all banks doing business in this
state.

(2) It shall:

(a) examine, at least once every 30 months, each of
those banks and verify the assets and liabilities of each
and ~~so far~~ investigate the character and value of the assets
of each as to ascertain with reasonable certainty that the
values are correctly carried on the books; and

(b) submit in writing to the examined bank a report of
the examination's findings no later than 120 days after the
completion of the examination.

(3) It shall further investigate the methods of
operation and conduct of business of the banks and their
systems of accounting to ascertain whether the methods and
systems are in accordance with law and sound banking

1 principles.

2 (4) It may examine under oath any of the officers,
3 directors, agents, clerks, customers, or depositors of a
4 bank regarding the affairs and business thereof of the bank.

5 (5) It may, in the performance of its official duties,
6 issue subpoenas and administer oaths. In case of a refusal
7 to obey a subpoena issued by it, the refusal may at once be
8 reported to the district court of the district in which the
9 bank is located, and the court shall enforce obedience to
10 the subpoena in the manner provided by law for enforcing
11 obedience to the process of the court.

12 (6) In all matters relating to its official duties,
13 the department has the same power possessed by courts of law
14 to issue subpoenas and have them served and enforced.

15 (7) All officers, directors, agents, and employees of
16 banks doing business under this chapter and all persons
17 having dealings with or knowledge of the affairs or methods
18 of a bank shall at all times afford reasonable facilities
19 for the examinations and make returns and reports to the
20 department as it may require. They shall also attend
21 hearings and answer under oath the department's inquiries,
22 produce and exhibit any books, accounts, documents, and
23 property it desires to inspect, and in all things aid it in
24 the performance of its duty."

25 **Section 2.** Section 32-1-215, MCA, is amended to read:

1 **"32-1-215. Special examinations and fees -- REPORT**
2 **WITHIN 120 DAYS.** Special examinations may be made of a bank,
3 trust company, investment company, building and loan
4 association, or credit union when in the judgment of the
5 department it is considered necessary, and the special
6 examination shall be charged for at the a rate of \$100-a-day
7 for--each--person-engaged-in-the-examination that equals the
8 department's actual costs for examiner wages and travel
9 expenses. All special examination fees or charges shall be
10 paid at the conclusion of the examination, and the moneys
11 collected by the department shall be paid to the state
12 treasurer for the credit of the state special revenue fund
13 for the use of the department in its examination function.
14 THE DEPARTMENT SHALL SUBMIT IN WRITING TO THE EXAMINED BANK
15 A REPORT OF THE EXAMINATION'S FINDINGS NO LATER THAN 120
16 DAYS AFTER THE COMPLETION OF THE EXAMINATION."

17 **Section 3.** Section 32-1-422, MCA, is amended to read:

18 **"32-1-422. Restriction on investment in corporate**
19 **stock.** (1) No commercial or savings bank shall purchase or
20 invest its capital or surplus or money of its depositors, or
21 any part of either, in the capital stock of any corporation
22 unless the purchase or acquisition of such capital stock
23 shall--be is necessary to prevent loss to the bank on a debt
24 previously contracted in good faith. Any capital stock so
25 purchased or acquired shall be sold by such the bank within

1 6 months thereafter, if it can be sold for the amount of the
 2 claim of such the bank against it. All capital stock thus
 3 purchased or acquired must be sold for the best price
 4 obtainable by said the bank within 1 year after such
 5 purchase or acquisition, or if such the stock is
 6 unmarketable, it shall be charged off as an investment loss,
 7 which shall be equivalent to the stock's sale thereof. Every
 8 person or corporation violating any provision of this
 9 section shall forfeit to the state twice the nominal amount
 10 of such stock.

11 (2) Notwithstanding subsection (1), a ~~commercial--or~~
 12 ~~savings bank may invest up to 20% of its capital and surplus~~
 13 ~~in the capital stock of a bank service corporation organized~~
 14 ~~solely--for--the--purpose--of--providing--services--to--banks.~~
 15 acquire and hold for its own account:

16 (a) up to 20% of its capital and surplus in the
 17 capital stock of a bank service corporation organized solely
 18 for the purpose of providing services to banks;

19 (b) shares of stock of a federal reserve bank, without
 20 limitation of amount; and

21 (c) shares of stock in a Montana capital company
 22 within limits prescribed by the Montana Capital Company Act.

23 (3) A bank may invest any amount up to 5% of its
 24 unimpaired capital and surplus in shares of stock of:

25 (a) the federal national mortgage association;

1 (b) the federal home loan mortgage corporation;
 2 (c) the federal agricultural mortgage corporation; and
 3 (d) other corporations created pursuant to acts of
 4 congress to meet the agricultural, housing, health, transit,
 5 educational, environmental, or similar needs of the nation
 6 when the department determines that the investment is in the
 7 public interest."

8 **Section 4.** Section 32-1-433, MCA, is amended to read:

9 "32-1-433. Limit-on-amount-of-bond-issue Investment in
 10 certain securities. No-commercial-bank-may--purchase--agree
 11 to--purchase--or-underwrite-any-bond-issue-in-excess-of-50%
 12 of--its--unimpaired--capital--and--surplus--except--general
 13 obligation--bonds--of--the--United--States--of--the-state-of
 14 Montana--or--of--the--cities--towns--counties--or--school
 15 districts--of--this--state. A bank may purchase, sell,
 16 underwrite, and hold investment securities that are
 17 obligations in the form of bonds, notes, or debentures, as
 18 provided in rules adopted by the department. A bank may
 19 hold without limit investment securities that are general
 20 obligations of the United States, obligations that are
 21 guaranteed fully as to principal and interest by the United
 22 States, or general obligations of any state."

23 **Section 5.** Section 32-1-437, MCA, is amended to read:

24 "32-1-437. Acceptance and issuance of drafts and
 25 letters-of-credit. Every bank organized and existing under

1 the laws of Montana shall have power and authority to accept
2 for payment at a future date drafts drawn upon it by its
3 customers ~~and--to--issue--letters--of--credit~~, authorizing
4 holders thereof to draw drafts upon it or its correspondents
5 at sight or on time, provided that the total amount of
6 drafts so accepted ~~or--letters--of--credit--so--issued~~ for any
7 one person, firm, or corporation shall not at any one time
8 exceed 20% of the capital and surplus of the accepting or
9 issuing bank."

10 NEW SECTION. **Section 6.** Rulemaking authority. The
11 department shall adopt rules to implement [sections 2 3
12 through 4 5].

13 NEW SECTION. **Section 7.** Codification instruction.
14 [Section 5 6] is intended to be codified as an integral part
15 of Title 32, chapter 1, part 4, and the provisions of Title
16 32, chapter 1, part 4, apply to [section 5 6].

17 NEW SECTION. **Section 8.** Effective date. [This act] is
18 effective on passage and approval.

-End-

1 HOUSE BILL NO. 218

2 INTRODUCED BY J. BROWN

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS
6 RELATING TO FINANCIAL INSTITUTIONS; REQUIRING A REPORT OF
7 EXAMINATION WITHIN 120 DAYS OF COMPLETION; REVISING CHARGES
8 FOR EXAMINATION OF FINANCIAL INSTITUTIONS; REDEFINING
9 INVESTMENT IN CAPITAL STOCKS; ALLOWING INVESTMENT IN CERTAIN
10 SECURITIES; CLARIFYING ISSUANCE OF DRAFTS; AMENDING SECTIONS
11 32-1-211, 32-1-215, 32-1-422, 32-1-433, AND 32-1-437, MCA;
12 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13
14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 it grants to the department of commerce authority to make
17 rules relative to allowing a bank to invest in capital stock
18 of certain corporations and removing the limit on certain
19 securities that a bank may hold. In structuring these
20 rules, the department shall consider the provisions of all
21 applicable statutes and rules. Charges allowed may not
22 exceed the actual costs, supported by documentation,
23 incurred in conducting special examinations. The rules must
24 provide adequate safeguards, in the form of substantiation
25 of the fiscal stability of the issuer, to ensure the

1 financial integrity of every quasi-governmental corporation
2 in which an investment is allowed. The rules may also
3 require evaluation to determine suitability of particular
4 investments. Paramount in any rule regarding bank
5 investments must be the safety of depositors funds.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:8 SECTION 1. SECTION 32-1-211, MCA, IS AMENDED TO READ:

9 "32-1-211. Examination and supervision by department.

10 (1) The department shall exercise constant supervision over
11 the books and affairs of all banks doing business in this
12 state.

13 (2) It shall:

14 (a) examine, at least once every 30 months, each of
15 those banks and verify the assets and liabilities of each
16 and so far investigate the character and value of the assets
17 of each as to ascertain with reasonable certainty that the
18 values are correctly carried on the books; and

19 (b) submit in writing to the examined bank a report of
20 the examination's findings no later than 120 days after the
21 completion of the examination.

22 (3) It shall further investigate the methods of
23 operation and conduct of business of the banks and their
24 systems of accounting to ascertain whether the methods and
25 systems are in accordance with law and sound banking

1 principles.

2 (4) It may examine under oath any of the officers,
3 directors, agents, clerks, customers, or depositors of a
4 bank regarding the affairs and business thereof of the bank.

5 (5) It may, in the performance of its official duties,
6 issue subpoenas and administer oaths. In case of a refusal
7 to obey a subpoena issued by it, the refusal may at once be
8 reported to the district court of the district in which the
9 bank is located, and the court shall enforce obedience to
10 the subpoena in the manner provided by law for enforcing
11 obedience to the process of the court.

12 (6) In all matters relating to its official duties,
13 the department has the same power possessed by courts of law
14 to issue subpoenas and have them served and enforced.

15 (7) All officers, directors, agents, and employees of
16 banks doing business under this chapter and all persons
17 having dealings with or knowledge of the affairs or methods
18 of a bank shall at all times afford reasonable facilities
19 for the examinations and make returns and reports to the
20 department as it may require. They shall also attend
21 hearings and answer under oath the department's inquiries,
22 produce and exhibit any books, accounts, documents, and
23 property it desires to inspect, and in all things aid it in
24 the performance of its duty."

25 **Section 2.** Section 32-1-215, MCA, is amended to read:

1 **"32-1-215. Special examinations and fees -- REPORT**
2 **WITHIN 120 DAYS.** Special examinations may be made of a bank,
3 trust company, investment company, building and loan
4 association, or credit union when in the judgment of the
5 department it is considered necessary, and the special
6 examination shall be charged for at the a rate of \$100-a-day
7 for--each--person-engaged-in-the-examination that equals the
8 department's actual costs for examiner wages and travel
9 expenses. All special examination fees or charges shall be
10 paid at the conclusion of the examination, and the moneys
11 collected by the department shall be paid to the state
12 treasurer for the credit of the state special revenue fund
13 for the use of the department in its examination function.
14 THE DEPARTMENT SHALL SUBMIT IN WRITING TO THE EXAMINED BANK
15 A REPORT OF THE EXAMINATION'S FINDINGS NO LATER THAN 120
16 DAYS AFTER THE COMPLETION OF THE EXAMINATION."

17 **Section 3.** Section 32-1-422, MCA, is amended to read:

18 **"32-1-422. Restriction on investment in corporate**
19 **stock.** (1) No commercial or savings bank shall purchase or
20 invest its capital or surplus or money of its depositors, or
21 any part of either, in the capital stock of any corporation
22 unless the purchase or acquisition of such capital stock
23 shall--be is necessary to prevent loss to the bank on a debt
24 previously contracted in good faith. Any capital stock so
25 purchased or acquired shall be sold by such the bank within

6 months thereafter, if it can be sold for the amount of the claim of such the bank against it. All capital stock thus purchased or acquired must be sold for the best price obtainable by said the bank within 1 year after such purchase or acquisition, or if such the stock is unmarketable, it shall be charged off as an investment loss, which shall be equivalent to the stock's sale thereof. Every person or corporation violating any provision of this section shall forfeit to the state twice the nominal amount of such stock.

(2) Notwithstanding subsection (1), a ~~commercial--or savings bank~~ may ~~invest up to 20% of its capital and surplus in the capital stock of a bank service corporation organized solely--for--the--purpose--of--providing--services--to--banks--~~ acquire and hold for its own account:

(a) up to 20% of its capital and surplus in the capital stock of a bank service corporation organized solely for the purpose of providing services to banks;

(b) shares of stock of a federal reserve bank, without limitation of amount; and

(c) shares of stock in a Montana capital company within limits prescribed by the Montana Capital Company Act.

(3) A bank may invest any amount up to 5% of its unimpaired capital and surplus in shares of stock of:

(a) the federal national mortgage association;

(b) the federal home loan mortgage corporation;
(c) the federal agricultural mortgage corporation; and
(d) other corporations created pursuant to acts of congress to meet the agricultural, housing, health, transit, educational, environmental, or similar needs of the nation when the department determines that the investment is in the public interest."

Section 4. Section 32-1-433, MCA, is amended to read:

"32-1-433. Limit-on-amount-of-bond-issue Investment in certain securities. No-commercial-bank-may-purchase,--agree-to--purchase,--or-underwrite-any-bond-issue-in-excess-of 50% of--its--unimpaired--capital--and--surplus,--except--general obligation--bonds--of--the--United--States,--or the-state-of Montana,--or--of--the--cities,--towns,--counties,--or--school districts---of--this--state. A bank may purchase, sell, underwrite, and hold investment securities that are obligations in the form of bonds, notes, or debentures, as provided in rules adopted by the department. A bank may hold without limit investment securities that are general obligations of the United States, obligations that are guaranteed fully as to principal and interest by the United States, or general obligations of any state."

Section 5. Section 32-1-437, MCA, is amended to read:

"32-1-437. Acceptance and issuance of drafts and letters-of-credit. Every bank organized and existing under

1 the laws of Montana shall have power and authority to accept
2 for payment at a future date drafts drawn upon it by its
3 customers ~~and--to--issue--letters--of--credit~~, authorizing
4 holders thereof to draw drafts upon it or its correspondents
5 at sight or on time, provided that the total amount of
6 drafts so accepted ~~or--letters--of--credit--so--issued~~ for any
7 one person, firm, or corporation shall not at any one time
8 exceed 20% of the capital and surplus of the accepting or
9 issuing bank."

10 NEW SECTION. **Section 6.** Rulemaking authority. The
11 department shall adopt rules to implement [sections 2 3
12 through 4 5].

13 NEW SECTION. **Section 7.** Codification instruction.
14 [Section 5 6] is intended to be codified as an integral part
15 of Title 32, chapter 1, part 4, and the provisions of Title
16 32, chapter 1, part 4, apply to [section 5 6].

17 NEW SECTION. **Section 8.** Effective date. [This act] is
18 effective on passage and approval.

-End-

1 HOUSE BILL NO. 218

2 INTRODUCED BY J. BROWN

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS
6 RELATING TO FINANCIAL INSTITUTIONS; REQUIRING A REPORT OF
7 EXAMINATION WITHIN 120 DAYS OF COMPLETION; REVISING CHARGES
8 FOR EXAMINATION OF FINANCIAL INSTITUTIONS; REDEFINING
9 INVESTMENT IN CAPITAL STOCKS; ALLOWING INVESTMENT IN CERTAIN
10 SECURITIES; CLARIFYING ISSUANCE OF DRAFTS; AMENDING SECTIONS
11 32-1-211, 32-1-215, 32-1-422, 32-1-433, AND 32-1-437, MCA;
12 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 it grants to the department of commerce authority to make
17 rules relative to allowing a bank to invest in capital stock
18 of certain corporations and removing the limit on certain
19 securities that a bank may hold. In structuring these
20 rules, the department shall consider the provisions of all
21 applicable statutes and rules. Charges allowed may not
22 exceed the actual costs, supported by documentation,
23 incurred in conducting special examinations. The rules must
24 provide adequate safeguards, in the form of substantiation
25 of the fiscal stability of the issuer, to ensure the

1 financial integrity of every quasi-governmental corporation
2 in which an investment is allowed. The rules may also
3 require evaluation to determine suitability of particular
4 investments. Paramount in any rule regarding bank
5 investments must be the safety of depositors funds.
6

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

8 SECTION 1. SECTION 32-1-211, MCA, IS AMENDED TO READ:

9 "32-1-211. Examination and supervision by department.

10 (1) The department shall exercise constant supervision over
11 the books and affairs of all banks doing business in this
12 state.

13 (2) It shall:

14 (a) examine, at least once every 30 months, each of
15 those banks and verify the assets and liabilities of each
16 and so far investigate the character and value of the assets
17 of each as to ascertain with reasonable certainty that the
18 values are correctly carried on the books; and

19 (b) submit in writing to the examined bank a report of
20 the examination's findings no later than 120 days after the
21 completion of the examination.

22 (3) It shall further investigate the methods of
23 operation and conduct of business of the banks and their
24 systems of accounting to ascertain whether the methods and
25 systems are in accordance with law and sound banking

principles.

(4) It may examine under oath any of the officers, directors, agents, clerks, customers, or depositors of a bank regarding the affairs and business thereof of the bank.

(5) It may, in the performance of its official duties, issue subpoenas and administer oaths. In case of a refusal to obey a subpoena issued by it, the refusal may at once be reported to the district court of the district in which the bank is located, and the court shall enforce obedience to the subpoena in the manner provided by law for enforcing obedience to the process of the court.

(6) In all matters relating to its official duties, the department has the same power possessed by courts of law to issue subpoenas and have them served and enforced.

(7) All officers, directors, agents, and employees of banks doing business under this chapter and all persons having dealings with or knowledge of the affairs or methods of a bank shall at all times afford reasonable facilities for the examinations and make returns and reports to the department as it may require. They shall also attend hearings and answer under oath the department's inquiries, produce and exhibit any books, accounts, documents, and property it desires to inspect, and in all things aid it in the performance of its duty."

Section 2. Section 32-1-215, MCA, is amended to read:

"32-1-215. Special examinations and fees -- REPORT WITHIN 120 DAYS. Special examinations may be made of a bank, trust company, investment company, building and loan association, or credit union when in the judgment of the department it is considered necessary, and the special examination shall be charged for at the a rate of \$100-a-day for--each--person-engaged-in-the-examination that equals the department's actual costs for examiner wages and travel expenses. All special examination fees or charges shall be paid at the conclusion of the examination, and the moneys collected by the department shall be paid to the state treasurer for the credit of the state special revenue fund for the use of the department in its examination function. THE DEPARTMENT SHALL SUBMIT IN WRITING TO THE EXAMINED BANK A REPORT OF THE EXAMINATION'S FINDINGS NO LATER THAN 120 DAYS AFTER THE COMPLETION OF THE EXAMINATION."

Section 3. Section 32-1-422, MCA, is amended to read:

"32-1-422. Restriction on investment in corporate stock. (1) No commercial or savings bank shall purchase or invest its capital or surplus or money of its depositors, or any part of either, in the capital stock of any corporation unless the purchase or acquisition of such capital stock shall--be is necessary to prevent loss to the bank on a debt previously contracted in good faith. Any capital stock so purchased or acquired shall be sold by such the bank within

1 6 months thereafter, if it can be sold for the amount of the
 2 claim of such the bank against it. All capital stock thus
 3 purchased or acquired must be sold for the best price
 4 obtainable by said the bank within 1 year after such
 5 purchase or acquisition, or if such the stock is
 6 unmarketable, it shall be charged off as an investment loss,
 7 which shall be equivalent to the stock's sale thereof. Every
 8 person or corporation violating any provision of this
 9 section shall forfeit to the state twice the nominal amount
 10 of such stock.

11 (2) Notwithstanding subsection (1), a ~~commercial--or~~
 12 ~~savings bank may invest up to 20% of its capital and surplus~~
 13 ~~in the capital stock of a bank service corporation organized~~
 14 ~~solely--for--the--purpose--of--providing--services--to--banks--~~
 15 acquire and hold for its own account:

16 (a) up to 20% of its capital and surplus in the
 17 capital stock of a bank service corporation organized solely
 18 for the purpose of providing services to banks;

19 (b) shares of stock of a federal reserve bank, without
 20 limitation of amount; and

21 (c) shares of stock in a Montana capital company
 22 within limits prescribed by the Montana Capital Company Act.

23 (3) A bank may invest any amount up to 5% of its
 24 unimpaired capital and surplus in shares of stock of:

25 (a) the federal national mortgage association;

1 (b) the federal home loan mortgage corporation;
 2 (c) the federal agricultural mortgage corporation; and
 3 (d) other corporations created pursuant to acts of
 4 congress to meet the agricultural, housing, health, transit,
 5 educational, environmental, or similar needs of the nation
 6 when the department determines that the investment is in the
 7 public interest."

8 **Section 4.** Section 32-1-433, MCA, is amended to read:

9 "32-1-433. Limit-on-amount-of-bond-issue Investment in
 10 certain securities. No-commercial-bank-may--purchase--agree
 11 to--purchase--or-underwrite-any-bond-issue-in-excess-or 50%
 12 of--its--unimpaired-capital-and-surplus--except general
 13 obligation--bonds--of--the--United--States--or the-state-of
 14 Montana; or--of--the--cities--towns--counties--or--school
 15 districts---of--this--state. A bank may purchase, sell,
 16 underwrite, and hold investment securities that are
 17 obligations in the form of bonds, notes, or debentures, as
 18 provided in rules adopted by the department. A bank may
 19 hold without limit investment securities that are general
 20 obligations of the United States, obligations that are
 21 guaranteed fully as to principal and interest by the United
 22 States, or general obligations of any state."

23 **Section 5.** Section 32-1-437, MCA, is amended to read:

24 "32-1-437. Acceptance and issuance of drafts and
 25 letters-of-credit. Every bank organized and existing under

HB 0218/02

1 the laws of Montana shall have power and authority to accept
2 for payment at a future date drafts drawn upon it by its
3 customers ~~and--to--issue--letters--of--credit~~, authorizing
4 holders thereof to draw drafts upon it or its correspondents
5 at sight or on time, provided that the total amount of
6 drafts so accepted ~~or--letters--of--credit--so--issued~~ for any
7 one person, firm, or corporation shall not at any one time
8 exceed 20% of the capital and surplus of the accepting or
9 issuing bank."

10 NEW SECTION. **Section 6.** Rulemaking authority. The
11 department shall adopt rules to implement [sections 2 3
12 through 4 5].

13 NEW SECTION. **Section 7.** Codification instruction.
14 [Section 5 6] is intended to be codified as an integral part
15 of Title 32, chapter 1, part 4, and the provisions of Title
16 32, chapter 1, part 4, apply to [section 5 6].

17 NEW SECTION. **Section 8.** Effective date. [This act] is
18 effective on passage and approval.

-End-