

HOUSE BILL NO. 358

INTRODUCED BY BARNETT, SWIFT,
BACHINI, CHRISTIAENS, HIBBARD

IN THE HOUSE

JANUARY 26, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 4, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 5, 1993	PRINTING REPORT.
FEBRUARY 6, 1993	SECOND READING, DO PASS.
FEBRUARY 8, 1993	ENGROSSING REPORT.
FEBRUARY 9, 1993	THIRD READING, PASSED. AYES, 83; NOES, 16.
FEBRUARY 10, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 11, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 5, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 6, 1993	SECOND READING, CONCURRED IN.
MARCH 8, 1993	THIRD READING, CONCURRED IN. AYES, 38; NOES, 11.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 2, 1993	THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *358*
 2 INTRODUCED BY *Barnett Swift Backlund*
 3 *Holland*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
 5 BANKING LAWS; AUTHORIZING INTERSTATE BANK ACQUISITIONS BY A
 6 REGIONAL BANK HOLDING COMPANY; ESTABLISHING CONDITIONS AND
 7 LIMITATIONS ON ACQUISITIONS; REVISING LIMITS ON DETACHED
 8 TELLER FACILITIES; AND AMENDING SECTION 32-1-372, MCA."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 **NEW SECTION. Section 1. Purpose.** (1) The purpose of
 12 [sections 1 through 4] is to authorize interstate banking by
 13 the acquisition of existing banks within the framework of
 14 the "Douglas amendment" to the Bank Holding Company Act of
 15 1956, as amended, and to provide a variety of banking
 16 alternatives in Montana in terms of the members and
 17 ownership of banks. If federal legislation authorizes
 18 unrestricted interstate banking unless state law
 19 affirmatively provides otherwise, it is the purpose of
 20 [sections 1 through 4] to affirmatively provide that
 21 unrestricted interstate banking does not apply in Montana.
 22 (2) [Sections 1 through 4] do not authorize the
 23 establishment of a branch bank in Montana by a bank not
 24 located in Montana. Sections 32-1-371 and 32-1-375 do not
 25 apply to acquisitions or transactions authorized in

1 [sections 1 through 4].
 2 **NEW SECTION. Section 2. Definitions.** As used in
 3 [sections 1 through 4], unless the context requires
 4 otherwise, the following definitions apply:
 5 (1) "Acquire" means:
 6 (a) the direct or indirect purchase of stock;
 7 (b) the direct or indirect purchase of assets; or
 8 (c) a merger.
 9 (2) "Bank" means a commercial bank as defined in
 10 32-1-105 or a national banking association as designated by
 11 12 U.S.C. 24.
 12 (3) "Bank holding company" means a bank holding company
 13 that is registered under the Bank Holding Company Act of
 14 1956, as amended, regardless of where it is located or has
 15 its headquarters.
 16 (4) "Control" means:
 17 (a) ownership of, authority over, or power to vote,
 18 directly or indirectly, 25% or more of any class of voting
 19 security;
 20 (b) authority in any manner over the election of a
 21 majority of directors; or
 22 (c) power to exercise, directly or indirectly, a
 23 controlling influence over management and policies.
 24 (5) "Department" means the department of commerce
 25 provided for in 2-15-1801.

(6) "Financial institution" means a bank or bank holding company.

(7) "Headquarters" means the state in which the activities of a bank holding company or a company controlling the bank holding company are "principally conducted" within the meaning of the Bank Holding Company Act of 1956, as amended.

(8) "Located in this state" means:

(a) in the case of a bank, that the organizational certificate identifies an address in this state as the principal place of conducting its business; and

(b) in the case of a bank holding company, an entity, partnership, or trust organized under the laws of this state.

(9) "Reciprocating state" means a state that authorizes the acquisition, directly or indirectly, of control of banks in that state by a bank holding company located in this state under terms and conditions substantially similar to the terms and conditions contained in [sections 1 through 4].

(10) "Regional bank holding company" means a bank holding company that does not have its headquarters in Montana and:

(a) that has headquarters in Colorado, Idaho, Minnesota, North Dakota, South Dakota, Wisconsin, or

Wyoming; or

(b) that controlled a bank in Montana on January 1, 1993. The authority to acquire control of a bank under [sections 1 through 4] may not be transferred to a bank holding company that does not have its headquarters in a state listed in subsection (10)(a).

NEW SECTION. Section 3. Acquisition of financial institution by bank holding company not located in this state -- limitations. (1) A regional bank holding company with headquarters in a reciprocating state may acquire control of a bank located in this state through acquisition of a financial institution if the regional bank holding company complies with [sections 1 through 4]. The bank to be acquired must:

(a) have been conducting business for a continuous period of at least 6 years prior to the acquisition; or

(b) be organized for the purpose of purchasing the assets of a bank that has conducted business for a continuous period of at least 6 years prior to the acquisition.

(2) A bank holding company may acquire control of a bank located in this state by purchase of stock in or by merger with a regional bank holding company.

(3) (a) Subject to the provisions of subsection (3)(b), a bank holding company may not acquire control of a bank

located in this state if the bank holding company would directly or indirectly control more than 18% of all deposits in federally insured banks, savings associations, and credit unions located in this state.

(b) On October 1, 1994, and on October 1 of each year thereafter, the percentage limitation contained in subsection (3)(a) must be increased by 1% until the limit reaches 22%.

(4) A bank holding company that is not located in this state or that does not have headquarters in this state may not acquire control of a bank located in this state if the acquisition of control would result in the aggregate direct or indirect control of more than 49% of all deposits in all federally insured banks and savings associations located in this state.

(5) The determination of the limits contained in subsections (3) and (4) must be based upon public reports filed with the appropriate regulatory agency as of the December 31 preceding the submission to the appropriate federal banking regulatory agency of the application seeking prior approval of the acquisition of control of the bank.

(6) A bank holding company that ceases to be a regional bank holding company shall divest all interest in a bank located in this state unless the bank holding company:

(a) controlled the bank for a period of 36 consecutive

months immediately prior to cessation of its status as a regional bank holding company; or

(b) controlled the bank on January 1, 1993.

(7) If a regional bank holding company is being acquired by a bank holding company that does not have its headquarters in this state and that is not a regional bank holding company, then the bank holding company shall divest all interest in a bank located in this state unless the regional bank holding company:

(a) controlled the bank for a period of 36 consecutive months immediately prior to the acquisition of control of the regional bank holding company by the acquiring bank holding company; or

(b) controlled the bank on January 1, 1993.

(8) If this section requires a bank holding company to divest all interest in a bank located in this state, the divestiture must be completed within 24 calendar months of the event requiring the divestiture.

NEW SECTION. Section 4. Federal applications --

comments. (1) A bank holding company shall file with the department a copy of applications submitted to a federal banking regulatory agency seeking prior approval of the proposed acquisition of a financial institution located in this state. The bank holding company shall also file a statement verifying that the acquisition will not result in

a violation of the limits in [section 3(3) and (4)].

(2) The applications and statement are public records, and the department shall allow public inspection of all nonconfidential portions of the applications and statements. The department shall solicit public comment on the applications by promptly publishing notice of the applications in a newspaper of general circulation in the county in which the financial institution to be acquired is located. The department shall send the comments to the appropriate federal banking regulatory agency. The department may intervene in or take other action in a federal banking regulatory authority proceeding.

Section 5. Section 32-1-372, MCA, is amended to read:

"32-1-372. Branch bank -- detached facilities. (1) A bank may establish and maintain a branch bank only as provided in 32-1-371 and this section and, in the case of a bank organized under the laws of this state, with the prior approval of the state banking board, provided that nothing in this section prohibits ordinary clearinghouse transactions between banks.

(2) (a) With the prior approval of the department, any a bank or branch bank doing business in this state may establish and maintain:

(i) not--more--than one detached drive-in and walk-up facility consisting of one or more teller windows; or

(ii) if the bank or branch bank is doing business in a city or consolidated government with a population of more than 20,000 as indicated in the most recent United States census, two drive-in or walk-up facilities consisting of one or more teller windows.

(b) The A detached facility must be in the city or within 3,000 feet of the city limits of the city in which the main banking house or branch bank is located. The A facility 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 from the closest points of the closest structures involved. The distances specified in this subsection 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 from the closest points of the closest structures involved. The service of the a facility must be limited to receiving deposits of every kind, cashing checks or orders to pay, receiving payments payable at the bank or the branch bank, and other transactions that are normally and usually conducted or handled at teller windows

1 in the main banking house or branch bank.

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

10 (4) A bank, other than a bank owned by a holding
11 company not located in Montana, may establish, maintain, and
12 operate a branch bank in a city in which no bank or branch
13 bank is located at the time the branch bank is to be
14 established if that city is in the county or a county
15 adjoining the county in which the main banking house of the
16 branch bank is located.

17 (5) Common ownership notwithstanding, a bank located in
18 this state may acquire by consolidation or merger under
19 32-1-371 and may maintain and operate as a branch bank any
20 bank in this state if, at the time of acquisition, a
21 receiver has been appointed by an appropriate regulatory
22 agency or other governmental authority. Nothing-in-this
23 subsection-allows-a-bank-owned-by-a--holding--company--not
24 located--in--this--state-to-acquire-an-interest-in-a-bank-in
25 contravention-of-12-U.S.C.-1042-

1 (6) A branch bank must have a community advisory
2 board."

3 NEW SECTION. Section 6. Severability. (1) If a part of
4 [this act], other than [section 3(3) or (4)], is invalid,
5 all valid parts that are severable from the invalid part
6 remain in effect. If a part of [this act], other than
7 [section 3(3) or (4)], is invalid in one or more of its
8 applications, the part remains in effect in all valid
9 applications that are severable from the invalid
10 applications.

11 (2) If [section 3(3) or (4)] is invalid or if the
12 application of [section 3(1)] must be extended to bank
13 holding companies other than regional bank holding
14 companies, then [this act] is void.

15 NEW SECTION. Section 7. Saving clause. If [this act]
16 is voided, it does not affect an acquisition or rights and
17 duties that matured, penalties that were incurred, or
18 proceedings that were begun before [the date this act is
19 void].

20 NEW SECTION. Section 8. Codification instruction.
21 [Sections 1 through 4] are intended to be codified as an
22 integral part of Title 32, chapter 1, and the provisions of
23 Title 32, chapter 1, apply to [sections 1 through 4].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0358, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: The bill would allow acquisition of Montana banks, subject to certain restrictions, by certain out-of-state holding companies. The bill also would allow banks in communities of more than 20,000 population to maintain up to two drive-up or walk-up facilities, rather than the one allowed under current law.

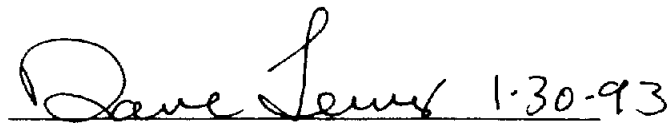
ASSUMPTIONS:

1. Acquisition transactions will be rare (no more than 2 per year).
2. Notice of application to acquire will have to be published only once by the Department of Commerce and in only one city.
3. Application process for detached facilities will not change.
4. Number of detached facilities will increase by 50% within 10 years in cities of over 20,000 population

FISCAL IMPACT: None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Any effects resulting from new ownership of banks cannot be estimated. Property tax revenue may increase in some counties as a result of new detached facilities.

 1-30-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-1-93

JOE BARNETT, PRIMARY SPONSOR DATE

Fiscal Note for HB0358, as introduced

HB 358

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 358

INTRODUCED BY BARNETT, SWIFT,
BACHINI, CHRISTIAENS, HIBBARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
BANKING LAWS; AUTHORIZING INTERSTATE BANK ACQUISITIONS BY A
REGIONAL BANK HOLDING COMPANY; ESTABLISHING CONDITIONS AND
LIMITATIONS ON ACQUISITIONS; REVISING LIMITS ON DETACHED
TELLER FACILITIES; AND AMENDING SECTION 32-1-372, MCA."

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

NEW SECTION. Section 1. Purpose. (1) The purpose of
[sections 1 through 4] is to authorize interstate banking by
the acquisition of existing banks within the framework of
the "Douglas amendment" to the Bank Holding Company Act of
1956, as amended, and to provide a variety of banking
alternatives in Montana in terms of the members NUMBERS and
ownership of banks. If federal legislation authorizes
unrestricted interstate banking unless state law
affirmatively provides otherwise, it is the purpose of
[sections 1 through 4] to affirmatively provide that
unrestricted interstate banking does not apply in Montana.

(2) [Sections 1 through 4] do not authorize the
establishment of a branch bank in Montana by a bank not
located in Montana. Sections 32-1-371 and 32-1-375 do not

apply to acquisitions or transactions authorized in
[sections 1 through 4].

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 4], unless the context requires
otherwise, the following definitions apply:

(1) "Acquire" means:

- (a) the direct or indirect purchase of stock;
- (b) the direct or indirect purchase of assets; or
- (c) a merger.

(2) "Bank" means a commercial bank as defined in
32-1-105 or a national banking association as designated by
12 U.S.C. 24.

(3) "Bank holding company" means a bank holding company
that is registered under the Bank Holding Company Act of
1956, as amended, regardless of where it is located or has
its headquarters.

(4) "Control" means:

- (a) ownership of, authority over, or power to vote,
directly or indirectly, 25% or more of any class of voting
security;
- (b) authority in any manner over the election of a
majority of directors; or
- (c) power to exercise, directly or indirectly, a
controlling influence over management and policies.

(5) "Department" means the department of commerce

provided for in 2-15-1801.

(6) "Financial institution" means a bank or bank holding company.

(7) "Headquarters" means the state in which the activities of a bank holding company or a company controlling the bank holding company are "principally conducted" within the meaning of the Bank Holding Company Act of 1956, as amended.

(8) "Located in this state" means:

(a) in the case of a bank, that the organizational certificate identifies an address in this state as the principal place of conducting its business; and

(b) in the case of a bank holding company, an entity, partnership, or trust organized under the laws of this state.

(9) "Reciprocating state" means a state that authorizes the acquisition, directly or indirectly, of control of banks in that state by a bank holding company located in this state under terms and conditions substantially similar to the terms and conditions contained in [sections 1 through 4].

(10) "Regional bank holding company" means a bank holding company that does not have its headquarters in Montana and:

(a) that has headquarters in Colorado, Idaho,

Minnesota, North Dakota, South Dakota, Wisconsin, or Wyoming; or

(b) that controlled a bank in Montana on January 1, 1993. The authority to acquire control of a bank under [sections 1 through 4] may not be transferred to a bank holding company that does not have its headquarters in a state listed in subsection (10)(a).

NEW SECTION. Section 3. Acquisition of financial institution by bank holding company not located in this state -- limitations. (1) A regional bank holding company with headquarters in a reciprocating state may acquire control of a bank located in this state through acquisition of a financial institution if the regional bank holding company complies with [sections 1 through 4]. The bank to be acquired must:

(a) have been conducting business for a continuous period of at least 6 years prior to the acquisition; or

(b) be organized for the purpose of purchasing the assets of a bank that has conducted business for a continuous period of at least 6 years prior to the acquisition.

(2) A bank holding company may acquire control of a bank located in this state by purchase of stock in or by merger with a regional bank holding company.

(3) (a) Subject to the provisions of subsection (3)(b),

1 a bank holding company may not acquire control of a bank
2 located in this state if the bank holding company would
3 directly or indirectly control more than 18% of all deposits
4 in federally insured banks, savings associations, and credit
5 unions located in this state.

6 (b) On October 1, 1994, and on October 1 of each year
7 thereafter, the percentage limitation contained in
8 subsection (3)(a) must be increased by 1% until the limit
9 reaches 22%.

10 (4) A bank holding company that is not located in this
11 state or that does not have headquarters in this state may
12 not acquire control of a bank located in this state if the
13 acquisition of control would result in the aggregate direct
14 or indirect control of more than 49% of all deposits in all
15 federally insured banks and savings associations located in
16 this state.

17 (5) The determination of the limits contained in
18 subsections (3) and (4) must be based upon public reports
19 filed with the appropriate regulatory agency as of the
20 December 31 preceding the submission to the appropriate
21 federal banking regulatory agency of the application seeking
22 prior approval of the acquisition of control of the bank.

23 (6) A bank holding company that ceases to be a regional
24 bank holding company shall divest all interest in a bank
25 located in this state unless the bank holding company:

1 (a) controlled the bank for a period of 36 consecutive
2 months immediately prior to cessation of its status as a
3 regional bank holding company; or

4 (b) controlled the bank on January 1, 1993.

5 (7) If a regional bank holding company is being
6 acquired by a bank holding company that does not have its
7 headquarters in this state and that is not a regional bank
8 holding company, then the bank holding company shall divest
9 all interest in a bank located in this state unless the
10 regional bank holding company:

11 (a) controlled the bank for a period of 36 consecutive
12 months immediately prior to the acquisition of control of
13 the regional bank holding company by the acquiring bank
14 holding company; or

15 (b) controlled the bank on January 1, 1993.

16 (8) If this section requires a bank holding company to
17 divest all interest in a bank located in this state, the
18 divestiture must be completed within 24 calendar months of
19 the event requiring the divestiture.

20 NEW SECTION. **Section 4. Federal applications** --
21 **comments.** (1) A bank holding company shall file with the
22 department a copy of applications submitted to a federal
23 banking regulatory agency seeking prior approval of the
24 proposed acquisition of a financial institution located in
25 this state. The bank holding company shall also file a

statement verifying that the acquisition will not result in a violation of the limits in [section 3(3) and (4)].

(2) The applications and statement are public records, and the department shall allow public inspection of all nonconfidential portions of the applications and statements. The department shall solicit public comment on the applications by promptly publishing notice of the applications in a newspaper of general circulation in the county in which the financial institution to be acquired is located. The department shall send the comments to the appropriate federal banking regulatory agency. The department may intervene in or take other action in a federal banking regulatory authority proceeding.

Section 5. Section 32-1-372, MCA, is amended to read:

***32-1-372. Branch bank -- detached facilities.** (1) A bank may establish and maintain a branch bank only as provided in 32-1-371 and this section and, in the case of a bank organized under the laws of this state, with the prior approval of the state banking board, provided that nothing in this section prohibits ordinary clearinghouse transactions between banks.

(2) (a) With the prior approval of the department, any a bank or branch bank doing business in this state may establish and maintain:

(i) ~~not--more--than~~ one detached drive-in and walk-up

facility consisting of one or more teller windows; or

(ii) if the bank or branch bank is doing business in a city or consolidated government with a population of more than 20,000 as indicated in the most recent United States census, two drive-in or walk-up facilities consisting of one or more teller windows.

(b) The A detached facility must be in the city or within 3,000 feet of the city limits of the city in which the main banking house or branch bank is located. The A facility 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 from the closest points of the closest structures involved. The distances specified in this subsection 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 from the closest points of the closest structures involved. The service of the a facility must be limited to receiving deposits of every kind, cashing checks or orders to pay, receiving payments payable at the bank or the branch bank, and other transactions that are

1 normally and usually conducted or handled at teller windows
2 in the main banking house or branch bank.

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

11 (4) A bank, other than a bank owned by a holding
12 company not located in Montana, may establish, maintain, and
13 operate a branch bank in a city in which no bank or branch
14 bank is located at the time the branch bank is to be
15 established if that city is in the county or a county
16 adjoining the county in which the main banking house of the
17 branch bank is located.

18 (5) Common ownership notwithstanding, a bank located in
19 this state may acquire by consolidation or merger under
20 32-1-371 and may maintain and operate as a branch bank any
21 bank in this state if, at the time of acquisition, a
22 receiver has been appointed by an appropriate regulatory
23 agency or other governmental authority. ~~Nothing-in-this~~
24 ~~subsection-allows-a-bank-owned-by-a--holding--company--not~~
25 ~~located--in--this--state-to-acquire-an-interest-in-a-bank-in~~

1 ~~contravention-of-12-8-3-Cr-1842-~~

2 (6) A branch bank must have a community advisory
3 board."

4 NEW SECTION. Section 6. Severability. (1) If a part of
5 [this act], other than [section 3(3) or (4)], is invalid,
6 all valid parts that are severable from the invalid part
7 remain in effect. If a part of [this act], other than
8 [section 3(3) or (4)], is invalid in one or more of its
9 applications, the part remains in effect in all valid
10 applications that are severable from the invalid
11 applications.

12 (2) If [section 3(3) or (4)] is invalid or if the
13 application of [section 3(1)] must be extended to bank
14 holding companies other than regional bank holding
15 companies, then [this act] is void.

16 NEW SECTION. Section 7. Saving clause. If [this act]
17 is voided, it does not affect an acquisition or rights and
18 duties that matured, penalties that were incurred, or
19 proceedings that were begun before [the date this act is
20 void].

21 NEW SECTION. Section 8. Codification instruction.
22 [Sections 1 through 4] are intended to be codified as an
23 integral part of Title 32, chapter 1, and the provisions of
24 Title 32, chapter 1, apply to [sections 1 through 4].

-End-

HOUSE BILL NO. 358

INTRODUCED BY BARNETT, SWIFT,

BACHINI, CHRISTIAENS, HIBBARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BANKING LAWS; AUTHORIZING INTERSTATE BANK ACQUISITIONS BY A REGIONAL BANK HOLDING COMPANY; ESTABLISHING CONDITIONS AND LIMITATIONS ON ACQUISITIONS; REVISING LIMITS ON DETACHED TELLER FACILITIES; AND AMENDING SECTION 32-1-372, MCA."

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

NEW SECTION. Section 1. Purpose. (1) The purpose of [sections 1 through 4] is to authorize interstate banking by the acquisition of existing banks within the framework of the "Douglas amendment" to the Bank Holding Company Act of 1956, as amended, and to provide a variety of banking alternatives in Montana in terms of the members NUMBERS and ownership of banks. If federal legislation authorizes unrestricted interstate banking unless state law affirmatively provides otherwise, it is the purpose of [sections 1 through 4] to affirmatively provide that unrestricted interstate banking does not apply in Montana.

(2) [Sections 1 through 4] do not authorize the establishment of a branch bank in Montana by a bank not located in Montana. Sections 32-1-371 and 32-1-375 do not

apply to acquisitions or transactions authorized in [sections 1 through 4].

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 4], unless the context requires otherwise, the following definitions apply:

(1) "Acquire" means:

- (a) the direct or indirect purchase of stock;
- (b) the direct or indirect purchase of assets; or
- (c) a merger.

(2) "Bank" means a commercial bank as defined in 32-1-105 or a national banking association as designated by 12 U.S.C. 24.

(3) "Bank holding company" means a bank holding company that is registered under the Bank Holding Company Act of 1956, as amended, regardless of where it is located or has its headquarters.

(4) "Control" means:

(a) ownership of, authority over, or power to vote, directly or indirectly, 25% or more of any class of voting security;

(b) authority in any manner over the election of a majority of directors; or

(c) power to exercise, directly or indirectly, a controlling influence over management and policies.

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provided for in 2-15-1801.

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Minnesota, North Dakota, South Dakota, Wisconsin, or Wyoming; or

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(a) have been conducting business for a continuous period of at least 6 years prior to the acquisition; or

(b) be organized for the purpose of purchasing the assets of a bank that has conducted business for a continuous period of at least 6 years prior to the acquisition.

(2) A bank holding company may acquire control of a bank located in this state by purchase of stock in or by merger with a regional bank holding company.

(3) (a) Subject to the provisions of subsection (3)(b),

1 a bank holding company may not acquire control of a bank
2 located in this state if the bank holding company would
3 directly or indirectly control more than 18% of all deposits
4 in federally insured banks, savings associations, and credit
5 unions located in this state.

6 (b) On October 1, 1994, and on October 1 of each year
7 thereafter, the percentage limitation contained in
8 subsection (3)(a) must be increased by 1% until the limit
9 reaches 22%.

10 (4) A bank holding company that is not located in this
11 state or that does not have headquarters in this state may
12 not acquire control of a bank located in this state if the
13 acquisition of control would result in the aggregate direct
14 or indirect control of more than 49% of all deposits in all
15 federally insured banks and savings associations located in
16 this state.

17 (5) The determination of the limits contained in
18 subsections (3) and (4) must be based upon public reports
19 filed with the appropriate regulatory agency as of the
20 December 31 preceding the submission to the appropriate
21 federal banking regulatory agency of the application seeking
22 prior approval of the acquisition of control of the bank.

23 (6) A bank holding company that ceases to be a regional
24 bank holding company shall divest all interest in a bank
25 located in this state unless the bank holding company:

1 (a) controlled the bank for a period of 36 consecutive
2 months immediately prior to cessation of its status as a
3 regional bank holding company; or

4 (b) controlled the bank on January 1, 1993.

5 (7) If a regional bank holding company is being
6 acquired by a bank holding company that does not have its
7 headquarters in this state and that is not a regional bank
8 holding company, then the bank holding company shall divest
9 all interest in a bank located in this state unless the
10 regional bank holding company:

11 (a) controlled the bank for a period of 36 consecutive
12 months immediately prior to the acquisition of control of
13 the regional bank holding company by the acquiring bank
14 holding company; or

15 (b) controlled the bank on January 1, 1993.

16 (8) If this section requires a bank holding company to
17 divest all interest in a bank located in this state, the
18 divestiture must be completed within 24 calendar months of
19 the event requiring the divestiture.

20 NEW SECTION. Section 4. Federal applications --
21 comments. (1) A bank holding company shall file with the
22 department a copy of applications submitted to a federal
23 banking regulatory agency seeking prior approval of the
24 proposed acquisition of a financial institution located in
25 this state. The bank holding company shall also file a

1 statement verifying that the acquisition will not result in
2 a violation of the limits in [section 3(3) and (4)].

3 (2) The applications and statement are public records,
4 and the department shall allow public inspection of all
5 nonconfidential portions of the applications and statements.
6 The department shall solicit public comment on the
7 applications by promptly publishing notice of the
8 applications in a newspaper of general circulation in the
9 county in which the financial institution to be acquired is
10 located. The department shall send the comments to the
11 appropriate federal banking regulatory agency. The
12 department may intervene in or take other action in a
13 federal banking regulatory authority proceeding.

14 **Section 5.** Section 32-1-372, MCA, is amended to read:

15 "32-1-372. Branch bank -- detached facilities. (1) A
16 bank may establish and maintain a branch bank only as
17 provided in 32-1-371 and this section and, in the case of a
18 bank organized under the laws of this state, with the prior
19 approval of the state banking board, provided that nothing
20 in this section prohibits ordinary clearinghouse
21 transactions between banks.

22 (2) (a) With the prior approval of the department, any
23 a bank or branch bank doing business in this state may
24 establish and maintain:

25 (i) not--more--than one detached drive-in and walk-up

1 facility consisting of one or more teller windows; or

2 (ii) if the bank or branch bank is doing business in a
3 city or consolidated government with a population of more
4 than 20,000 as indicated in the most recent United States
5 census, two drive-in or walk-up facilities consisting of one
6 or more teller windows.

7 (b) The A detached facility must be in the city or
8 within 3,000 feet of the city limits of the city in which
9 the main banking house or branch bank is located. The A
10 facility may not be closer than 200 feet to a facility
11 operated by any other bank or closer than 300 feet to the
12 main banking house of any other bank, the measurement to be
13 made in a straight line from the closest points of the
14 closest structures involved. The distances specified in this
15 subsection in relation to a facility operated by any other
16 bank and in relation to the main banking house of any other
17 bank may be decreased by mutual written agreement of the
18 banks involved to not closer than 150 feet to a facility
19 operated by any other bank or closer than 200 feet to the
20 main banking house of any other bank, the measurement to be
21 made in a straight line from the closest points of the
22 closest structures involved. The service of the a facility
23 must be limited to receiving deposits of every kind, cashing
24 checks or orders to pay, receiving payments payable at the
25 bank or the branch bank, and other transactions that are

normally and usually conducted or handled at teller windows in the main banking house or branch bank.

(3) Any A 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. The use of satellite terminals hereby-authorized is not subject to the restrictions on location, transaction, or number applicable to detached drive-in, walk-up, or teller facilities.

(4) A bank, other than a bank owned by a holding company not located in Montana, may establish, maintain, and operate a branch bank in a city in which no bank or branch bank is located at the time the branch bank is to be established if that city is in the county or a county adjoining the county in which the main banking house of the branch bank is located.

(5) Common ownership notwithstanding, a bank located in this state may acquire by consolidation or merger under 32-1-371 and may maintain and operate as a branch bank any bank in this state if, at the time of acquisition, a receiver has been appointed by an appropriate regulatory agency or other governmental authority. ~~Nothing-in-this subsection-allows-a-bank-owned-by-a--holding--company--not located--in--this--state-to-acquire-an-interest-in-a-bank-in~~

~~contravention-of-12-8-87-1042-~~

(6) A branch bank must have a community advisory board."

NEW SECTION. Section 6. Severability. (1) If a part of [this act], other than [section 3(3) or (4)], is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act], other than [section 3(3) or (4)], is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

(2) If [section 3(3) or (4)] is invalid or if the application of [section 3(1)] must be extended to bank holding companies other than regional bank holding companies, then [this act] is void.

NEW SECTION. Section 7. Saving clause. If [this act] is voided, it does not affect an acquisition or rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the date this act is void].

NEW SECTION. Section 8. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 32, chapter 1, and the provisions of Title 32, chapter 1, apply to [sections 1 through 4].

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 4, 1993

MR. PRESIDENT:

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

Signed: 

Senator John "J.D." Lynch, Chair

That such amendments read:

1. Page 5, line 14.


Following: "control"

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

-END-

SENATE

HB 358

 Amd. Coord.
Sec. of Senate


Senator Carrying Bill

491204SC.San

HOUSE BILL NO. 358

INTRODUCED BY BARNETT, SWIFT,

BACHINI, CHRISTIAENS, HIBBARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BANKING LAWS; AUTHORIZING INTERSTATE BANK ACQUISITIONS BY A REGIONAL BANK HOLDING COMPANY; ESTABLISHING CONDITIONS AND LIMITATIONS ON ACQUISITIONS; REVISING LIMITS ON DETACHED TELLER FACILITIES; AND AMENDING SECTION 32-1-372, MCA."

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

NEW SECTION. Section 1. Purpose. (1) The purpose of [sections 1 through 4] is to authorize interstate banking by the acquisition of existing banks within the framework of the "Douglas amendment" to the Bank Holding Company Act of 1956, as amended, and to provide a variety of banking alternatives in Montana in terms of the members NUMBERS and ownership of banks. If federal legislation authorizes unrestricted interstate banking unless state law affirmatively provides otherwise, it is the purpose of [sections 1 through 4] to affirmatively provide that unrestricted interstate banking does not apply in Montana.

(2) [Sections 1 through 4] do not authorize the establishment of a branch bank in Montana by a bank not located in Montana. Sections 32-1-371 and 32-1-375 do not

apply to acquisitions or transactions authorized in [sections 1 through 4].

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 4], unless the context requires otherwise, the following definitions apply:

(1) "Acquire" means:

- (a) the direct or indirect purchase of stock;
- (b) the direct or indirect purchase of assets; or
- (c) a merger.

(2) "Bank" means a commercial bank as defined in 32-1-105 or a national banking association as designated by 12 U.S.C. 24.

(3) "Bank holding company" means a bank holding company that is registered under the Bank Holding Company Act of 1956, as amended, regardless of where it is located or has its headquarters.

(4) "Control" means:

(a) ownership of, authority over, or power to vote, directly or indirectly, 25% or more of any class of voting security;

(b) authority in any manner over the election of a majority of directors; or

(c) power to exercise, directly or indirectly, a controlling influence over management and policies.

(5) "Department" means the department of commerce

1 provided for in 2-15-1801.

2 (6) "Financial institution" means a bank or bank
3 holding company.

4 (7) "Headquarters" means the state in which the
5 activities of a bank holding company or a company
6 controlling the bank holding company are "principally
7 conducted" within the meaning of the Bank Holding Company
8 Act of 1956, as amended.

9 (8) "Located in this state" means:

10 (a) in the case of a bank, that the organizational
11 certificate identifies an address in this state as the
12 principal place of conducting its business; and

13 (b) in the case of a bank holding company, an entity,
14 partnership, or trust organized under the laws of this
15 state.

16 (9) "Reciprocating state" means a state that authorizes
17 the acquisition, directly or indirectly, of control of banks
18 in that state by a bank holding company located in this
19 state under terms and conditions substantially similar to
20 the terms and conditions contained in [sections 1 through
21 4].

22 (10) "Regional bank holding company" means a bank
23 holding company that does not have its headquarters in
24 Montana and:

25 (a) that has headquarters in Colorado, Idaho,

1 Minnesota, North Dakota, South Dakota, Wisconsin, or
2 Wyoming; or

3 (b) that controlled a bank in Montana on January 1,
4 1993. The authority to acquire control of a bank under
5 [sections 1 through 4] may not be transferred to a bank
6 holding company that does not have its headquarters in a
7 state listed in subsection (10)(a).

8 NEW SECTION. Section 3. Acquisition of financial
9 institution by bank holding company not located in this
10 state -- limitations. (1) A regional bank holding company
11 with headquarters in a reciprocating state may acquire
12 control of a bank located in this state through acquisition
13 of a financial institution if the regional bank holding
14 company complies with [sections 1 through 4]. The bank to be
15 acquired must:

16 (a) have been conducting business for a continuous
17 period of at least 6 years prior to the acquisition; or

18 (b) be organized for the purpose of purchasing the
19 assets of a bank that has conducted business for a
20 continuous period of at least 6 years prior to the
21 acquisition.

22 (2) A bank holding company may acquire control of a
23 bank located in this state by purchase of stock in or by
24 merger with a regional bank holding company.

25 (3) (a) Subject to the provisions of subsection (3)(b),

1 a bank holding company may not acquire control of a bank
2 located in this state if the bank holding company would
3 directly or indirectly control more than 18% of all deposits
4 in federally insured banks, savings associations, and credit
5 unions located in this state.

6 (b) On October 1, 1994, and on October 1 of each year
7 thereafter, the percentage limitation contained in
8 subsection (3)(a) must be increased by 1% until the limit
9 reaches 22%.

10 (4) A bank holding company that is not located in this
11 state or that does not have headquarters in this state may
12 not acquire control of a bank located in this state if the
13 acquisition of control would result in the aggregate direct
14 or indirect control, BY ALL BANK HOLDING COMPANIES THAT DO
15 NOT HAVE HEADQUARTERS IN THIS STATE, of more than 49% of all
16 deposits in all federally insured banks and savings
17 associations located in this state.

18 (5) The determination of the limits contained in
19 subsections (3) and (4) must be based upon public reports
20 filed with the appropriate regulatory agency as of the
21 December 31 preceding the submission to the appropriate
22 federal banking regulatory agency of the application seeking
23 prior approval of the acquisition of control of the bank.

24 (6) A bank holding company that ceases to be a regional
25 bank holding company shall divest all interest in a bank

1 located in this state unless the bank holding company:

2 (a) controlled the bank for a period of 36 consecutive
3 months immediately prior to cessation of its status as a
4 regional bank holding company; or

5 (b) controlled the bank on January 1, 1993.

6 (7) If a regional bank holding company is being
7 acquired by a bank holding company that does not have its
8 headquarters in this state and that is not a regional bank
9 holding company, then the bank holding company shall divest
10 all interest in a bank located in this state unless the
11 regional bank holding company:

12 (a) controlled the bank for a period of 36 consecutive
13 months immediately prior to the acquisition of control of
14 the regional bank holding company by the acquiring bank
15 holding company; or

16 (b) controlled the bank on January 1, 1993.

17 (8) If this section requires a bank holding company to
18 divest all interest in a bank located in this state, the
19 divestiture must be completed within 24 calendar months of
20 the event requiring the divestiture.

21 NEW SECTION. Section 4. Federal applications --
22 comments. (1) A bank holding company shall file with the
23 department a copy of applications submitted to a federal
24 banking regulatory agency seeking prior approval of the
25 proposed acquisition of a financial institution located in

1 this state. The bank holding company shall also file a
2 statement verifying that the acquisition will not result in
3 a violation of the limits in [section 3(3) and (4)].

4 (2) The applications and statement are public records,
5 and the department shall allow public inspection of all
6 nonconfidential portions of the applications and statements.
7 The department shall solicit public comment on the
8 applications by promptly publishing notice of the
9 applications in a newspaper of general circulation in the
10 county in which the financial institution to be acquired is
11 located. The department shall send the comments to the
12 appropriate federal banking regulatory agency. The
13 department may intervene in or take other action in a
14 federal banking regulatory authority proceeding.

15 **Section 5.** Section 32-1-372, MCA, is amended to read:

16 "32-1-372. Branch bank -- detached facilities. (1) A
17 bank may establish and maintain a branch bank only as
18 provided in 32-1-371 and this section and, in the case of a
19 bank organized under the laws of this state, with the prior
20 approval of the state banking board, provided that nothing
21 in this section prohibits ordinary clearinghouse
22 transactions between banks.

23 (2) (a) With the prior approval of the department, any
24 a bank or branch bank doing business in this state may
25 establish and maintain:

1 (i) not--more--than one detached drive-in and walk-up
2 facility consisting of one or more teller windows; or
3 (ii) if the bank or branch bank is doing business in a
4 city or consolidated government with a population of more
5 than 20,000 as indicated in the most recent United States
6 census, two drive-in or walk-up facilities consisting of one
7 or more teller windows.

8 (b) The A detached facility must be in the city or
9 within 3,000 feet of the city limits of the city in which
10 the main banking house or branch bank is located. The A
11 facility may not be closer than 200 feet to a facility
12 operated by any other bank or closer than 300 feet to the
13 main banking house of any other bank, the measurement to be
14 made in a straight line from the closest points of the
15 closest structures involved. The distances specified in this
16 subsection in relation to a facility operated by any other
17 bank and in relation to the main banking house of any other
18 bank may be decreased by mutual written agreement of the
19 banks involved to not closer than 150 feet to a facility
20 operated by any other bank or closer than 200 feet to the
21 main banking house of any other bank, the measurement to be
22 made in a straight line from the closest points of the
23 closest structures involved. The service of the a facility
24 must be limited to receiving deposits of every kind, cashing
25 checks or orders to pay, receiving payments payable at the

bank or the branch bank, and other transactions that are normally and usually conducted or handled at teller windows in the main banking house or branch bank.

(3) Any A 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. The use of satellite terminals hereby-authorized is not subject to the restrictions on location, transaction, or number applicable to detached drive-in, walk-up, or teller facilities.

(4) A bank, other than a bank owned by a holding company not located in Montana, may establish, maintain, and operate a branch bank in a city in which no bank or branch bank is located at the time the branch bank is to be established if that city is in the county or a county adjoining the county in which the main banking house of the branch bank is located.

(5) Common ownership notwithstanding, a bank located in this state may acquire by consolidation or merger under 32-1-371 and may maintain and operate as a branch bank any bank in this state if, at the time of acquisition, a receiver has been appointed by an appropriate regulatory agency or other governmental authority. ~~Nothing in this subsection allows a bank owned by a holding company not~~

~~located in this state to acquire an interest in a bank in contravention of 12-U.S.C.-1842.~~

(6) A branch bank must have a community advisory board."

NEW SECTION. **Section 6. Severability.** (1) If a part of [this act], other than [section 3(3) or (4)], is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act], other than [section 3(3) or (4)], is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

(2) If [section 3(3) or (4)] is invalid or if the application of [section 3(1)] must be extended to bank holding companies other than regional bank holding companies, then [this act] is void.

NEW SECTION. **Section 7. Saving clause.** If [this act] is voided, it does not affect an acquisition or rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the date this act is void].

NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 32, chapter 1, and the provisions of Title 32, chapter 1, apply to [sections 1 through 4].