

## 1 SENATE BILL NO. 58

2 INTRODUCED BY D. SALOMON

3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA "BANK ACT"; DEFINING

6 REGIONAL BANKING ORGANIZATIONS; EXPANDING THE DEPARTMENT OF ADMINISTRATION'S

7 AUTHORITY OVER BANK HOLDING COMPANIES OF REGIONAL BANKING ORGANIZATIONS; GRANTING

8 RULEMAKING AUTHORITY; EXTENDING THE TIME FOR COMPLETION OF EXAMINATION REPORTS FOR

9 REGIONAL BANKING ORGANIZATIONS; AUTHORIZING THE DEPARTMENT TO PARTICIPATE IN BANK

10 HOLDING COMPANY EXAMINATIONS OF REGIONAL BANKING ORGANIZATIONS; ALTERING THE

11 COMPOSITION OF A REGIONAL BANKING ORGANIZATION'S BOARD OF DIRECTORS; CHANGING THE

12 DEFINITION OF A STUDENT FINANCIAL INSTITUTION AND THE REQUIREMENTS FOR OPERATION OF

13 A STUDENT FINANCIAL INSTITUTION BY A FINANCIAL INSTITUTION; CHANGING THE REQUIREMENTS

14 FOR BANK BRANCH AND LOAN PRODUCTION OFFICE OPENINGS, RELOCATIONS, AND CLOSINGS;

15 GIVING THE DEPARTMENT BANK CHANGE-IN-CONTROL APPROVAL AUTHORITY; GIVING THE

16 DEPARTMENT EXAMINATION AUTHORITY OVER SERVICE PROVIDERS; PROVIDING FOR THE

17 CONFIDENTIALITY OF SERVICE PROVIDER REPORTS AND LIMITED USE OF THAT INFORMATION;

18 GIVING THE DEPARTMENT EXPANDED AUTHORITY OVER EXAMINATIONS; REVISING THE

19 DEPARTMENT'S CONFLICT OF INTEREST LAWS; REVISING DIVIDEND REPORTING REQUIREMENTS;

20 REMOVING REFERENCES TO PAPER BOOKS AND RECORDS IN THE "BANK ACT"; ALLOWING FOR

21 ELECTRONIC BOOKS, RECORDS, AND SIGNATURES; REVISING THE PENALTIES FOR ALTERING BANK

22 RECORDS; REVISING THE CONVERSION FROM FEDERAL TO STATE CHARTER LAW; ALLOWING BANKS

23 TO HOLD BANKERS' BANK STOCK WITHIN CERTAIN LIMITS; REQUIRING PRIOR APPROVAL OF

24 DIVIDENDS UNDER CERTAIN CONDITIONS; ALLOWING THE REMOVAL OF OFFICERS, DIRECTORS, AND

25 EMPLOYEES FOR CERTAIN VIOLATIONS; ALLOWING NOTICES TO BE SENT BY COMMON COURIER

26 WITH TRACKING CAPABILITY; AMENDING SECTIONS 20-3-324, 32-1-109, 32-1-115, 32-1-202, 32-1-204,

27 32-1-211, 32-1-212, 32-1-232, 32-1-234, 32-1-308, 32-1-325, 32-1-372, 32-1-374, 32-1-384, 32-1-422, 32-1-452,

28 32-1-468, 32-1-506, 32-1-532, 32-1-911, 32-3-106, AND 32-6-103, MCA; AND REPEALING SECTIONS 32-1-381

29 AND 32-1-383, MCA."

30

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

2

3 **NEW SECTION. Section 1. Regional banking organizations -- department authority.** (1)

4 Notwithstanding 32-1-211(2)(b), the department shall submit to a regional banking organization a report of the  
5 examination findings no later than 90 days after the completion of the examination.

6 (2) The department has the same examination authority over the bank holding company of a regional  
7 banking organization as the department has over the regional banking organization.

8 (3) The department may:

9 (a) participate in examinations of bank holding companies of regional banking organizations with federal  
10 financial institution regulatory agencies and one or more state's financial regulatory departments; and

11 (b) take an enforcement action against the bank holding company of a regional banking organization  
12 pursuant to this chapter if the department considers the action to be necessary or appropriate to carry out its  
13 responsibilities under this chapter or to ensure compliance with the laws of this state.

14 (4) Notwithstanding 32-1-322, at least one-third of the board of directors of a regional banking  
15 organization must be residents of Montana.

16

17 **NEW SECTION. Section 2. Loan production office -- rulemaking authority.** (1) A bank may:

18 (a) establish and maintain a loan production office only after giving notice to the department; or

19 (b) relocate or close a loan production office after giving notice to its customers and the department.

20 (2) The department may adopt rules to implement this section.

21

22 **NEW SECTION. Section 3. Bank acquisition or control -- notice or application -- registration**

23 **statement -- violations -- penalties.** (1) A person may not acquire control of a bank until 30 days after filing with  
24 the department:

25 (a) a copy of the notice of change of control that is required to be filed with the federal banking regulatory  
26 agency; or

27 (b) a completed application as prescribed by the department in rule.

28 (2) The notice or application must be filed under oath and contain substantially all of the following  
29 information plus any additional information that the department may require as necessary or appropriate in the  
30 particular instance for the protection of bank depositors, borrowers, or shareholders and the public interest:

1 (a) the identity and banking and business experience of each person by whom or on whose behalf  
2 acquisition is to be made;

3 (b) the financial and managerial resources and future prospects of each person involved in the  
4 acquisition;

5 (c) the terms and conditions of any proposed acquisition and how the acquisition is to be made;

6 (d) the source and the amount of the funds or other consideration used or to be used in making the  
7 acquisition, and a description of the transaction and the names of the parties if any part of these funds or other  
8 consideration has been or is to be borrowed or otherwise obtained for making the acquisition;

9 (e) any plan or proposal that any person making the acquisition may have to liquidate the bank, to sell  
10 its assets, to merge it with any other bank, or to make any other major change in its business or corporate  
11 structure for management;

12 (f) the identification of any person employed, retained, or to be compensated by the acquiring party, or  
13 by any person on its behalf, who makes solicitations or recommendations to shareholders for the purpose of  
14 assisting in the acquisition, and a brief description of the terms of the employment, retainer, or arrangement for  
15 compensation; and

16 (g) copies of all invitations for tenders or advertisements making a tender offer to shareholders for the  
17 purchase of their stock to be used in connection with the proposed acquisition.

18 (3) When a person, other than an individual or a corporation, is required to file an application under this  
19 section, the department may require that the information required by subsections (2)(a), (2)(b), and (2)(f) be  
20 provided for each person who has an interest in or controls a person filing an application as provided under this  
21 subsection.

22 (4) When a corporation is required to file an application under this section, the department may require  
23 that information required by subsections (2)(a), (2)(b), and (2)(f) be provided for the corporation, each officer and  
24 director of the corporation, and each person who is directly or indirectly the beneficial owner of 25% or more of  
25 the outstanding voting securities of the corporation.

26 (5) If any tender offer, request, or invitation for tenders or other agreements to acquire control are  
27 proposed to be made by a registration statement under the Securities Act of 1933, 15 U.S.C. 77a, et seq., as  
28 amended, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act  
29 of 1934, 15 U.S.C. 78a, et seq., as amended, the registration statement or application may be filed with the  
30 department in lieu of the requirements of this section.

1 (6) An acquiring party shall also deliver a copy of any notice or application required by this section to the  
2 bank proposed to be acquired within 2 days after the notice or application is filed with the department.

3 (7) A bank or a bank holding company or a subsidiary of the bank or bank holding company may not  
4 acquire control of a bank located in this state if the bank, bank holding company, or subsidiary together with its  
5 affiliates would directly or indirectly control more than ~~30%~~ 22% of the total amount of deposits located in Montana  
6 of insured depository institutions and credit unions located in this state.

7 (8) The determination of the limit contained in subsection (7) must be based on public reports filed with  
8 the appropriate regulatory agency as of the December 31 preceding the submission to the appropriate federal  
9 banking regulatory agency of the application seeking prior approval of the acquisition of control of the bank.

10 (9) Any acquisition or change in control in violation of this section is void.

11 (10) Any person who willfully or intentionally violates this section or a rule adopted under this section is  
12 subject to a civil penalty of not more than \$1,000 for each day the violation continues.

13

14 **NEW SECTION. Section 4. Bank acquisition or control -- disapproval by department -- change**  
15 **of officers.** (1) The department may disapprove the acquisition of a bank within 30 days after the filing of a  
16 complete application pursuant to [section 3].

17 (2) The department may have an extended period, not exceeding an additional 15 days from the period  
18 allowed in subsection (1), to disapprove the acquisition if:

19 (a) the poor financial condition of any acquiring party may jeopardize the financial stability of the bank  
20 or may prejudice the interests of the bank depositors, borrowers, or shareholders;

21 (b) the plan or proposal of the acquiring party to liquidate the bank, sell its assets, merge it with any  
22 person, or make any other major change in its business or corporate structure or management is not fair and  
23 reasonable to the bank's depositors, borrowers, or stockholders or is not in the public interest;

24 (c) the banking and business experience and the integrity of any acquiring party that would control the  
25 operation of the bank indicate that approval would not be in the interest of the bank's depositors, borrowers, or  
26 shareholders;

27 (d) the information provided by the application is insufficient for the department to make a determination;

28 (e) there has been insufficient time to verify the information provided and conduct an examination of the  
29 qualifications of the acquiring party; or

30 (f) the acquisition would not be in the public interest.

1 (3) An acquisition may be made before expiration of the disapproval period if the department issues  
2 written notice of intent not to disapprove the action.

3 (4) (a) The department shall set forth the basis for disapproval of any proposed acquisition in writing and  
4 shall provide a copy of the findings and order to the applicants and to the bank involved.

5 (b) The findings and order may not be disclosed to any other party and may not be subject to public  
6 disclosure under 32-1-234 unless either the findings, order, or both are appealed pursuant to the Montana  
7 Administrative Procedure Act.

8 (5) Whenever a change in control occurs, each party to the transaction shall notify the department within  
9 10 business days of any changes or replacements of its chief executive officer or any director that occurs in the  
10 next 12-month period, and provide a statement of the past and present business and professional affiliations of  
11 the new chief executive officer or director.

12  
13 **NEW SECTION. Section 5. Rulemaking.** The department may adopt rules to implement [sections 3  
14 and 4].

15  
16 **Section 6.** Section 20-3-324, MCA, is amended to read:

17 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

18 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district  
19 superintendent, the county high school principal, or other principal as the board considers necessary, accepting  
20 or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the  
21 provisions of Title 20, chapter 4;

22 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians,  
23 maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered  
24 necessary to carry out the various services of the district;

25 (3) administer the attendance and tuition provisions and govern the pupils of the district in accordance  
26 with the provisions of the pupils chapter of this title;

27 (4) call, conduct, and certify the elections of the district in accordance with the provisions of the school  
28 elections chapter of this title;

29 (5) participate in the teachers' retirement system of the state of Montana in accordance with the  
30 provisions of the teachers' retirement system chapter of Title 19;

- 1 (6) participate in district boundary change actions in accordance with the provisions of the school districts  
2 chapter of this title;
- 3 (7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the  
4 provisions of the school organization part of this title;
- 5 (8) adopt and administer the annual budget or a budget amendment of the district in accordance with  
6 the provisions of the school budget system part of this title;
- 7 (9) conduct the fiscal business of the district in accordance with the provisions of the school financial  
8 administration part of this title;
- 9 (10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating reserve,  
10 and state impact aid amounts for the general fund of the district in accordance with the provisions of the general  
11 fund part of this title;
- 12 (11) establish, maintain, budget, and finance the transportation program of the district in accordance with  
13 the provisions of the transportation parts of this title;
- 14 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions  
15 of the bonds parts of this title;
- 16 (13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund,  
17 building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous  
18 programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal  
19 cooperative fund, and other funds as authorized by the state superintendent of public instruction in accordance  
20 with the provisions of the other school funds parts of this title;
- 21 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in  
22 accordance with the provisions of the miscellaneous financial parts of this title;
- 23 (15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with  
24 the provisions of the school sites and facilities part of this title;
- 25 (16) operate the schools of the district in accordance with the provisions of the school calendar part of  
26 this title;
- 27 (17) set the length of the school term, school day, and school week in accordance with 20-1-302;
- 28 (18) establish and maintain the instructional services of the schools of the district in accordance with the  
29 provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special  
30 education parts of this title;

1 (19) establish and maintain the school food services of the district in accordance with the provisions of  
2 the school food services parts of this title;

3 (20) make reports from time to time as the county superintendent, superintendent of public instruction,  
4 and board of public education may require;

5 (21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions  
6 of the school or the general health conditions of each pupil and, upon request, make available to any parent or  
7 guardian any medical reports or health records maintained by the district pertaining to the child;

8 (22) for each member of the trustees, visit each school of the district not less than once each school fiscal  
9 year to examine its management, conditions, and needs, except that trustees from a first-class school district may  
10 share the responsibility for visiting each school in the district;

11 (23) procure and display outside daily in suitable weather on school days at each school of the district  
12 an American flag that measures not less than 4 feet by 6 feet;

13 (24) provide that an American flag manufactured in the United States that measures approximately 3 feet  
14 by 5 feet be prominently displayed in each classroom in each school of the district no later than the beginning  
15 of the school year ~~starting after July 1, 2014~~, except in a classroom in which the flag may get soiled. Districts are  
16 encouraged to work with civic groups to acquire flags through donation, and this requirement is waived if the flags  
17 are not provided by a civic group.

18 (25) for grades 7 through 12, provide that legible copies of the United States constitution, the United  
19 States bill of rights, and the Montana constitution printed in the United States or in electronic form are readily  
20 available in every classroom no later than the beginning of the school year ~~starting after July 1, 2014~~. Districts  
21 are encouraged to work with civic groups to acquire the documents through donation, and this requirement is  
22 waived if the documents are not provided by a civic group.

23 (26) adopt and administer a district policy on assessment for placement of any child who enrolls in a  
24 school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

25 (27) upon request and in compliance with confidentiality requirements of state and federal law, disclose  
26 to interested parties school district student assessment data for any test required by the board of public  
27 education;

28 (28) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in  
29 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a  
30 postsecondary institution;

1 (29) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of  
2 20-1-303;

3 ~~(30) consider and, if advisable for a high school or K-12 district, establish a student financial institution,~~  
4 ~~as defined in 32-1-115; and~~

5 ~~(31)~~(30) perform any other duty and enforce any other requirements for the government of the schools  
6 prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public  
7 instruction."

8

9 **Section 7.** Section 32-1-109, MCA, is amended to read:

10 **"32-1-109. Definitions.** As used in this chapter, unless the context requires otherwise, the following  
11 definitions apply:

12 (1) "Acquire" means:

- 13 (a) the direct or indirect purchase or exchange of stock;
- 14 (b) the direct or indirect purchase of assets and liabilities; or
- 15 (c) a merger.

16 (2) "Acquiring party" means the person acquiring control of a bank through the purchase of stock.

17 ~~(2)~~(3) "Affiliate" has the meaning given in 12 U.S.C. 1841(k).

18 ~~(3)~~(4) "Bank holding company" means a bank holding company or a financial holding company registered  
19 under the federal Bank Holding Company Act of 1956, as amended, regardless of where it the entity is located  
20 or has its headquarters.

21 ~~(4)~~(5) "Board" means the state banking board provided for in 2-15-1025.

22 ~~(5)~~(6) "Branch ~~bank~~" means:

23 (a) in the case of a bank, a banking house, other than the main banking house, maintained and operated  
24 by a bank doing business in the state and at which deposits are received, checks are paid, or money is lent, ~~but~~  
25 The term does not include a satellite terminal, as defined in 32-6-103, a loan production office, or the office of an  
26 affiliated depository institution acting as an agent under 12 U.S.C. 1828; ~~and~~

27 (b) in the case of a trust company, any office at which trust services are provided.

28 ~~(6)~~(7) "Capital", "capital stock", and "paid-in capital" mean that fund for which certificates of stock are  
29 issued to stockholders.

30 ~~(7)~~(8) "Consolidate" and "merge" mean the same thing and may be used interchangeably in this chapter.



1           ~~(8)~~(9) "Control" means:

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

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

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

6           ~~(9)~~(10) "Demand deposits" means all deposits, the payment of which can legally be required when  
7 demanded.

8           ~~(10)~~(11) "Department" means the department of administration provided for in Title 2, chapter 15, part  
9 10.

10           ~~(11)~~(12) "Depository institution" means a bank or savings association organized under the laws of a state  
11 or the United States.

12           ~~(12)~~(13) "Division" means the division of banking and financial institutions of the department.

13           ~~(13)~~(14) "Doing business in this state" means located in this state or having a physical branch bank  
14 location in this state.

15           ~~(14)~~(15) "Headquarters" means the state in which the activities of a bank holding company or a company  
16 controlling the bank holding company are principally conducted within the meaning of the federal Bank Holding  
17 Company Act of 1956, as amended.

18           ~~(15)~~(16) "Insured depository institution" means a bank or savings association in which the deposits are  
19 insured by the federal deposit insurance corporation.

20           (17) "Loan production office" means a staffed facility, other than a branch, that provides lending-related  
21 services to the public, including loan information and applications.

22           ~~(16)~~(18) "Located in this state" means:

23           (a) in the case of a bank, that the bank is either organized under the laws of this state or is a federally  
24 chartered bank whose organizational certificate identifies an address in this state as the principal place at which  
25 the business of the federally chartered bank is conducted; and

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

28           ~~(17)~~(19) "Main banking house" means the designated principal place of business of a bank.

29           ~~(18)~~(20) "Net earnings" means the excess of the gross earnings of a bank over expenses and losses  
30 chargeable against those earnings during any 1 year.

1           ~~(19)~~(21) "Principal shareholder" means a person who directly or indirectly owns or controls, individually  
2 or through others, more than 10% of any class of voting stock.

3           ~~(20)~~(22) "Profit and loss account" or "profit and loss" means that account carried on the books of the bank  
4 into which all earnings accounts and recoveries are closed, thus exhibiting "gross earnings", and against which  
5 all loss and other disbursement items are charged, revealing "net earnings", which are then properly closed to  
6 "undivided profits accounts" or "undivided profits", out of which dividends are paid and reserves set aside.

7           (23) "Regional banking organization" means a bank organized in this state that is owned by an entity with  
8 consolidated total assets between \$10 billion and \$50 billion and that has subsidiaries operating in one or more  
9 states but not nationwide.

10          ~~(21)~~(24) "Savings association" means a savings association or savings bank organized under the laws  
11 of the United States or a building and loan association, savings and loan association, or similar entity organized  
12 under the laws of a state.

13          ~~(22)~~(25) "Shell bank" means a bank organized solely for the purpose of, and that does not conduct any  
14 banking business prior to, acquiring control of, merging with, or acquiring all or substantially all of the assets of  
15 an existing bank or savings association.

16          (26) "Service provider" means an individual or person that provides one or more of the following services  
17 to a depository institution:

18           (a) data processing services;

19           (b) activities supporting financial services, including but not limited to lending, funds transfer, fiduciary  
20 activities, trading activities, and deposit taking;

21           (c) internet-related services, including but not limited to web services and electronic bill payments, mobile  
22 applications, system and software development and maintenance, and security monitoring BUT NOT INCLUDING  
23 THE PROVISION OF AN INTERACTIVE COMPUTER SERVICE OR A GENERAL AUDIENCE INTERNET OR COMMUNICATIONS  
24 PLATFORM UNLESS THE SERVICE OR PLATFORM IS SPECIALLY DESIGNED OR ADAPTED FOR THE BUSINESS OF BANKING AND  
25 ACTIVITIES RELATING TO BANKING; and

26           (d) activities related to the business of banking.

27          ~~(23)~~(27) "Subsidiary" means a company 25% or more of whose voting shares or equity interests are  
28 owned and controlled by a bank.

29          ~~(24)~~(28) "Surplus" means a fund paid in or created under this chapter by a bank from its net earnings or  
30 undivided profits that, when set apart and designated as surplus, is not available for the payment of dividends

1 and cannot be used for the payment of expenses or losses so long as the bank has undivided profits.

2 ~~(29)~~ "Tier 1 leverage ratio" means the ratio of tier 1 capital to average total assets as defined in 12 CFR  
3 628.10(c)(4).

4 ~~(25)(30)~~ "Time deposits" means all deposits, the payment of which cannot legally be required within 7  
5 days.

6 ~~(26)(31)~~ "Undivided profits" means the credit balance of the profit and loss account of a bank."  
7

8 **Section 8.** Section 32-1-115, MCA, is amended to read:

9 **"32-1-115. Student financial institution defined -- obligations of minor -- applicability of laws. (1)**

10 The term "student financial institution" means a financial institution that:

11 ~~(a)~~ (a) is located at a school or a location where educational services are provided;

12 ~~(a)(b)~~ (b) is operated as a high school education financial literacy educational program;

13 ~~(b)~~ (c) is adopted by a school district board of trustees;

14 ~~(c)~~ (d) is advised by but not owned operated by one or more state-chartered or federally chartered financial  
15 institutions, limited to a state or national bank, a state or federal savings and loan association, a trust company,  
16 an investment company, or a state or federal credit union;

17 ~~(d)~~ (e) is located on property owned by a high school district, as defined in 20-6-101, or a K-12 school  
18 district, as defined in 20-6-701;

19 ~~(e)~~ (f) has as its customers only those students who are enrolled in the high school in which the institution  
20 is located; and

21 ~~(f)~~ (g) has a written commitment from the school district board of trustees guaranteeing reimbursement of  
22 any depositor's funds that are lost due to insolvency of the student financial institution

23 (d) does not provide services to the general public; and

24 (e) conducts each program in a manner consistent with safe and sound banking practices and compliant  
25 with state law.

26 ~~(2)~~ The funds of a student financial institution are not school district or public funds for the purposes of  
27 any state law governing the use or investment of school district or other public funds.

28 ~~(3)(2)~~ To advise operate a student financial institution, a state-chartered bank, savings and loan  
29 association, trust company, investment company, or credit union shall provide written notice to the department  
30 of administration.

1           ~~(3) Establishing a student financial institution does not require a branch application.~~

2           (4) With regard to the operation of a student financial institution, the obligations of a minor pertaining to  
3 borrowing money, cashing checks, and making deposits have the same force and effect as though they were the  
4 obligations of a person over the age of majority.

5           ~~(5) Except as provided in The provisions of 32-1-102, 32-1-402, and 32-3-106, and this section apply~~  
6 ~~to a student financial institution established pursuant to this section is not subject to, but other provisions of Title~~  
7 32, chapters 1 through 3, or any other provision of state law that regulates banks, credit unions, other financial  
8 institutions, or currency exchanges do not apply."

9

10           **Section 9.** Section 32-1-202, MCA, is amended to read:

11           **"32-1-202. Powers and duties of board.** The board shall:

12           (1) make final determinations upon applications for certificates of authorization for new banks;

13           (2) act in an advisory capacity with respect to the duties and powers given by statute or otherwise to the  
14 department as the duties and powers relate to banking;

15           ~~(3) upon request of an applicant or the department, review a decision of the department on an application~~  
16 ~~for the formation or closure of branch banks, sales of branch banks, or the consolidation, merger, or relocation~~  
17 ~~of banks and branch banks; and~~

18           ~~(4)~~(3) conduct hearings as provided in 32-1-204."

19

20           **Section 10.** Section 32-1-204, MCA, is amended to read:

21           **"32-1-204. Hearings -- notice.** (1) (a) A hearing must be conducted ~~upon~~ on all applications for new  
22 bank certificates of authorization, in accordance with the Montana Administrative Procedure Act relating to a  
23 contested case, whether or not any protest to the application is filed.

24           (b) A notice of the filing of an application for a new bank certificate of authorization must be mailed to  
25 all banks within 100 miles of the proposed location, measured in a straight line.

26           (c) A hearing may not be conducted sooner than 30 days or later than 90 days following the mailing of  
27 the notice.

28           (d) A bank filing a written protest with the board prior to the date of the hearing must be admitted as a  
29 "party", as defined in the Montana Administrative Procedure Act, with full rights of a party, including the right of  
30 subpoena of witnesses and written materials, the right of cross-examination, the right to have a transcript, the

1 right to receive all notices, a copy of the application, and all orders, and the right of judicial review and appeal.

2 (e) Notwithstanding the requirements of subsections (1)(a) through (1)(d), when the deposit liability of  
3 any closed bank is to be transferred to or assumed by a state bank being organized for that purpose, the board  
4 may issue a certificate of authorization without notice or hearing, according to rules adopted by the board.

5 (2) (a) A hearing must be conducted by the board ~~upon~~ on the request of a person timely protesting an  
6 application for the formation, ~~relocation, closure, or sale of a branch bank or for the consolidation, merger, or~~  
7 ~~relocation~~ of a bank if the application is approved by the department and if the board determines that there is a  
8 substantial basis for the protest. A person requesting a hearing under this subsection (2)(a) is entitled to judicial  
9 review of a denial of a hearing by the board.

10 (b) If a hearing is required under this subsection (2), the hearing may not be held sooner than 30 days  
11 or later than 90 days following the filing of the request for a hearing by the protesting party. A protesting party  
12 must be admitted as a party, as defined in the Montana Administrative Procedure Act, with full rights of a party,  
13 including the right of judicial review and appeal."  
14

15 **Section 11.** Section 32-1-211, MCA, is amended to read:

16 **"32-1-211. Examination and supervision by department -- division of banking and financial**  
17 **institutions -- commissioner -- rulemaking.** (1) The department shall:

18 (a) exercise constant supervision over the books and affairs of all banks and trust companies doing  
19 business in this state; and

20 (b) investigate the methods of operation and conduct of business of the banks and trust companies and  
21 their systems of accounting to ascertain whether the methods and systems are in accordance with law and sound  
22 banking principles.

23 (2) Except as provided in subsection ~~(9)~~ (3), the department shall:

24 (a) examine, at least once every 24 months, each bank or trust company and verify the assets and  
25 liabilities of each and investigate the character and value of the assets of each as to ascertain with reasonable  
26 certainty that the values are correctly carried on the books; and

27 (b) submit in writing to the examined bank or trust company a report of the examination's findings no later  
28 than 60 days after the completion of the examination.

29 ~~(3) The department shall investigate the methods of operation and conduct of business of the banks and~~  
30 ~~trust companies and their systems of accounting to ascertain whether the methods and systems are in~~

1 ~~accordance with law and sound banking principles.~~

2 (3) The department may accept as the examination required by subsection (2) the findings or results of  
 3 an examination of a bank, trust company, or service provider that was made by a federal or a state regulatory  
 4 agency or insuring agency of the United States authorized to make the examination.

5 (4) Whenever a depository institution or its subsidiary or the depository institution's affiliate, any of which  
 6 is subject to examination by the department, causes any of the services listed for a service provider in 32-1-109  
 7 to be performed for itself, by contract or otherwise, the performance is subject to regulation and examination by  
 8 the department to the same extent as if the services were performed by the depository institution itself.

9 ~~(4)(5)~~ The department may:

10 (a) enter into joint examination or joint enforcement actions with other bank regulatory agencies having  
 11 concurrent jurisdiction over a bank, trust company, or service provider;

12 (b) enter into agreements with any depository institution regulatory agency that has concurrent  
 13 jurisdiction over a bank, trust company, or service provider to:

14 (i) engage the services of the agency's examiners at a reasonable rate of compensation; or

15 (ii) provide the services of the department's examiners to the agency at a reasonable rate of  
 16 compensation;

17 (c) disclose to a bank information about a service provider of that bank.

18 (6) The department may in the performance of its official enforcement duties:

19 (a) examine under oath any of the officers, directors, agents, clerks, customers, or depositors of a bank  
 20 or trust company regarding the affairs and business of the bank or trust company; ~~and:~~

21 ~~—— (5) The department may, in the performance of its official duties,~~

22 (b) issue subpoenas and administer oaths.

23 (7) In case of a refusal to obey a subpoena issued by the department, the refusal may be reported to  
 24 the district court of the district in which the bank or trust company is located. The court shall enforce obedience  
 25 to the subpoena in the manner provided by law for enforcing obedience to the process of the court.

26 ~~(6)(8)~~ In all matters relating to its official duties, the department has the same power possessed by courts  
 27 of law to issue subpoenas and have them served and enforced.

28 ~~(7)(9)~~ All officers, directors, agents, and employees of banks or trust companies doing business under  
 29 this chapter and all persons having dealings with or knowledge of the affairs or methods of a bank or trust  
 30 company shall:

1           (a) at all times afford reasonable facilities for the examinations; and  
 2           (b) make returns and reports to the department as ~~it may require. They shall also~~ required by the  
 3 department;

4           (c) attend hearings and answer under oath the department's inquiries; and

5           (d) produce and exhibit any books, accounts, documents, and property the department desires to  
 6 inspect; and

7           (e) in all things aid the department in the performance of its duty.

8           ~~(8)~~(10) There is within the department a division of banking and financial institutions. The head of the  
 9 division is the commissioner of banking and financial institutions, who shall exercise supervision and control over  
 10 the activities and employees of the division. The position of commissioner is an exempt position as provided in  
 11 2-18-103. The commissioner must be hired by and serve at the pleasure of the director of the department. The  
 12 director may consult with the board in hiring or terminating the commissioner.

13           ~~(9) The commissioner may accept as the examination required by this section the findings or results of~~  
 14 ~~an examination of a bank or trust company that was made by a regulatory or insuring agency of the United States~~  
 15 ~~authorized to make the examination.~~

16           (11) The department may adopt rules to implement this section."

17

18           **Section 12.** Section 32-1-212, MCA, is amended to read:

19           "**32-1-212. ~~Bank examiner not to be interested in banks~~ Conflicts of interest -- definition --**  
 20 **rulemaking.** (1) ~~A bank examiner~~ The commissioner and any deputy commissioner may not be, directly or  
 21 indirectly, interested in ~~or a borrower from any bank organized under the laws of this state~~ any entity chartered  
 22 or supervised by the department.

23           (2) The commissioner, any deputy commissioner, or any employee of the division, including a bank  
 24 examiner, may not borrow money from an entity chartered or supervised by the department unless the extension  
 25 of credit:

26           (a) is made on substantially the same terms as those prevailing at the time for comparable transactions  
 27 by the financial institution with persons who are not employed by the division; and

28           (b) does not involve more than the normal risk of repayment or present other unfavorable features.

29           (3) For the purposes of this section, the phrase "substantially the same terms" includes interest rates  
 30 and collateral and credit underwriting procedures that are not less stringent than those prevailing at the time for

1 comparable transactions by the lender as for other borrowers who are not employed by the division.

2 (4) The department shall adopt rules to implement this section."

3

4 **Section 13.** Section 32-1-232, MCA, is amended to read:

5 **"32-1-232. Report of declaration of dividend.** In addition to the call report required by 32-1-231, a bank  
6 shall report to the department within ~~40~~ 30 days after declaring ~~any~~ a dividend, showing the amount of the  
7 dividend and the amount of net earnings in excess of the dividend. The report ~~shall~~ must be attested as provided  
8 in 32-1-231."

9

10 **Section 14.** Section 32-1-234, MCA, is amended to read:

11 **"32-1-234. Confidentiality -- penalties.** (1) (a) Reports and statements under [section 1], 32-1-211,  
12 32-1-215, 32-1-216, 32-1-231, 32-1-232, and 32-1-233 are confidential. Except for information made public by  
13 the federal deposit insurance corporation or other federal banking authority's publicly accessible website, any  
14 information contained in the reports and statements, the source documents from which this information is derived,  
15 and communications concerning reports and statements are confidential. Except as provided in subsection (1)(b),  
16 confidential information may not be disclosed to persons who are not officially associated with the department  
17 and may be used by the department only to further its official duties.

18 (b) The department may exchange information with federal financial institution regulatory agencies and  
19 with the financial regulatory departments of other states. The department may furnish information to the legislative  
20 auditor for use in pursuit of official duties. A prosecuting official may obtain the information by court order.

21 (2) Any knowledge or information gained or discovered by the department in pursuance of its powers  
22 or duties is confidential information of the department. The information may not, except as provided in subsection  
23 (1)(b), be disclosed to any person not officially associated with the department. The information must be used  
24 by the department only to further its official duties.

25 (3) An employee or agent of the department who violates this section or willfully makes a false official  
26 report as to the condition of a bank must be removed from office and is also guilty of a felony. Upon conviction,  
27 the person shall be fined an amount not exceeding \$1,000, imprisoned in a state correctional facility for a term  
28 not exceeding 5 years, or both."

29

30 **Section 15.** Section 32-1-308, MCA, is amended to read:



1           **"32-1-308. Bylaws.** The bylaws must be certified by a majority of the directors and the secretary of the  
 2 corporation and recorded in the ~~book of bylaws. The book must be open to public inspection during office hours.~~  
 3 permanent records of the bank. Bylaws must be open to public inspection during office hours. A copy of the  
 4 bylaws must also be transmitted to the department."  
 5

6           **Section 16.** Section 32-1-325, MCA, is amended to read:

7           **"32-1-325. Selection of officers and employees -- minutes of meetings.** (1) The board of directors  
 8 of a bank must hold a meeting at least quarterly.

9           (2) The board of directors may elect a president, one or more vice-presidents, a cashier, ~~and~~ one or  
 10 more assistant cashiers, and other officers and employees that they may from time to time consider to be to the  
 11 best interest of the bank and fix their compensation. The president must be chosen from the board of directors.

12           (3) The board of directors shall keep a correct report of the meetings of the board and of the stockholders  
 13 ~~in a book kept for that purpose.~~ The minutes must disclose the dates of the meetings and the names of the  
 14 directors or stockholders present. This record of the meetings of the board of directors must be ~~subscribed to~~  
 15 signed, manually or electronically, by the presiding officer and the person responsible for preparing the minutes.  
 16 The minutes must be read and approved at the following meeting of the board of directors, and the minutes of  
 17 the following meeting must show that fact. The ~~minute book~~ minutes must be ~~kept~~ available in the main office of  
 18 the bank at all times and must be ~~presented~~ available to the department at the time of its examination of the  
 19 books. ~~The department shall include in its report of examination of the bank a statement of the dates on which~~  
 20 ~~the meetings were held since the last examination of the bank and the names of the directors in attendance at~~  
 21 ~~each of these meetings.~~ A person who makes a material false entry in the ~~book~~ record of the board meetings or  
 22 who ~~changes or alters~~ makes a material change or alteration of an entry made in it the record is ~~guilty of a~~  
 23 ~~misdemeanor~~ subject to removal pursuant to 32-1-468.  
 24

25           **Section 17.** Section 32-1-372, MCA, is amended to read:

26           **"32-1-372. Branch bank.** (1) A bank may establish and maintain branch banks, as provided in 32-1-371  
 27 and this section. The formation and operation of a branch bank in this state by a bank organized under the laws  
 28 of this state require the prior approval of the department. A bank organized under the laws of this state may  
 29 establish, acquire, or operate a branch bank or other office outside this state if approved by the department and  
 30 if permitted by the laws of the jurisdiction where the branch bank or office is to be located.

1 (2) A branch bank may but is not required to offer all services and conduct all business authorized to be  
2 offered or conducted by the bank.

3 (3) A bank authorized to do banking business in this state may use a satellite terminal, as defined in  
4 32-6-103, at any location permitted by the Montana Electronic Funds Transfer Act.

5 (4) A bank may continue to maintain and operate all branch banks and other banking offices, ~~including~~  
6 ~~detached facilities, that are~~ in existence or authorized on July 1, 1997, without further consent, authorization, or  
7 approval of the department or the board. All offices established and maintained by a bank, other than the main  
8 banking house, at which deposits are received, checks are paid, or money is lent must be considered branch  
9 banks for all purposes under this title.

10 (5) A bank located in this state may provide services for other banks located in this state, whether or not  
11 those banks are affiliates.

12 (6) With the prior approval of the appropriate federal regulator and state chartering authority, a bank that  
13 is not organized under the laws of this state may establish and operate a de novo branch in this state under the  
14 same terms that would apply to a bank organized under the laws of this state seeking approval from the  
15 department to establish and operate a de novo branch in this state.

16 (7) A bank that is not organized under the laws of this state that applies to the appropriate federal  
17 regulator and state chartering authority under subsection (6) to establish and operate a de novo interstate branch  
18 in Montana shall simultaneously file a copy of the application with the department for notification purposes.

19 (8) A bank shall notify the department and its customers of any branch bank closure or relocation.

20 ~~(8)(9)~~ The department is authorized to may adopt rules to implement this section."  
21

22 **Section 18.** Section 32-1-374, MCA, is amended to read:

23 **"32-1-374. Reorganization Conversion of national bank as to state bank.** (1) A national bank that  
24 ~~is authorized to dissolve and that has taken the necessary steps to effect dissolution may reorganize as~~ may  
25 convert to a state bank ~~upon~~ on the consent in writing of the owners of two-thirds of the capital stock of the bank  
26 and with the approval of the department. The stockholders shall make, execute, and acknowledge articles of  
27 incorporation as required by the laws of the state of Montana and shall set forth in the articles of incorporation  
28 the written consent of the stockholders. ~~Upon the filing of~~ When the articles and the department approval are filed  
29 as provided by law ~~and upon the approval of the department,~~ the bank is ~~reorganized~~ converted under this  
30 chapter, and all assets, real and personal, of the ~~dissolved~~ national bank are vested in and become the property

1 of the ~~reorganized~~ converted state bank, subject to all liabilities of the national bank not liquidated before the  
2 ~~reorganization~~ conversion.

3 (2) The cashier of the bank shall:

4 (a) publish notice of the change once a week for 4 consecutive weeks in the newspaper that the directors  
5 select;

6 (b) send a printed notice by mail or otherwise to all nonvoting or dissenting stockholders; and

7 (c) notify the department that the bank has decided to become a corporation under the laws of Montana."  
8

9 **Section 19.** Section 32-1-384, MCA, is amended to read:

10 **"32-1-384. Federal applications -- comments.** (1) A bank holding company shall file with the  
11 department a copy of applications submitted to a federal banking regulatory agency seeking prior approval of the  
12 proposed acquisition of a ~~bank or~~ bank holding company located in this state. The acquiring bank holding  
13 company shall also file a statement verifying that the acquisition will not result in a violation of the limit in  
14 ~~32-1-383(3)~~ [section 3(7)].

15 (2) The applications and statement are public records, and the department shall allow public inspection  
16 of all nonconfidential portions of the applications and statements. The department shall solicit public comment  
17 on the applications by promptly publishing notice of the applications in a newspaper of general circulation in the  
18 county in which the ~~bank or~~ bank holding company to be acquired is located. The department shall send the  
19 comments to the appropriate federal banking regulatory agency. The department may intervene in or take other  
20 action in a federal banking regulatory authority proceeding."  
21

22 **Section 20.** Section 32-1-422, MCA, is amended to read:

23 **"32-1-422. Restriction on investment in corporate stock -- rulemaking authority.** (1) Except as  
24 provided in subsections (2) and (3), a commercial or savings bank may not purchase or invest its capital or  
25 surplus or money of its depositors, or any part of its capital or surplus or money of its depositors, in the capital  
26 stock of any corporation unless the purchase or acquisition of capital stock is necessary to prevent loss to the  
27 bank on a debt previously contracted in good faith. Any capital stock purchased or acquired to prevent the loss  
28 must be sold by the bank within 6 months after purchase or acquisition if ~~it~~ the capital stock can be sold for the  
29 amount of the claim of the bank against it. All capital stock purchased or acquired must be sold for the best price  
30 obtainable by the bank within 1 year after purchase or acquisition, ~~or; however,~~ if the stock is unmarketable, it

1 the stock must be charged off as an investment loss, which is equivalent to the stock's sale. A person or  
 2 corporation violating any provision of this section shall forfeit to the state twice the nominal amount of the stock.

3 (2) A bank may acquire and hold for ~~its~~ the bank's own account:

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

6 (b) up to 20% of the bank's capital and surplus in the capital stock of a bankers' bank;

7 ~~(b)(c)~~ shares of stock of a federal reserve bank and a federal home loan bank, without limitation of  
 8 amount; and

9 ~~(e)(d)~~ shares of stock or financial interests in an affiliate or a subsidiary, the business activities of which  
 10 are limited to those allowed by law for a bank.

11 (3) A bank may invest any amount up to the limit established by the department of ~~its~~ the bank's  
 12 unimpaired capital and surplus in shares of stock of:

13 (a) the federal national mortgage association;

14 (b) the federal home loan mortgage corporation;

15 (c) the federal agricultural mortgage corporation; and

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

19 (4) A bank may, upon written application and approval of the department, make an investment in an  
 20 amount permitted by the department by rule so long as the investment serves primarily to promote the public  
 21 welfare, including the welfare of low- and moderate-income families and communities in need of jobs, housing,  
 22 and public services. A bank may also, with the department's approval, purchase interests in an entity, as defined  
 23 in 35-1-113, that makes investments for similar public welfare purposes.

24 (5) The department shall adopt rules to implement this section. The rules pertaining to the investments  
 25 allowed in subsection (4) may be substantially equivalent to or more stringent than the eleventh power provided  
 26 for in 12 U.S.C. 24 and the policy guidelines on community development issued by the office of the comptroller  
 27 of the currency."

28

29 **Section 21.** Section 32-1-452, MCA, is amended to read:

30 **"32-1-452. Dividends, surplus, losses, and bad debts.** (1) The directors of a bank may, at certain

1 times and in the manner as ~~its~~ the bank's bylaws prescribe, declare and pay dividends to the stockholders of so  
 2 much of the net undivided profits of the ~~banks~~ bank as may be appropriated for that purpose, but every bank  
 3 shall, before declaring any dividend, carry at least 25% of ~~its~~ the bank's net earnings for the period covered by  
 4 the dividend to ~~its~~ the bank's surplus, until the surplus is 50% of ~~its~~ the bank's paid-up capital stock. The whole  
 5 or any part of the surplus may at any time be converted into paid-in capital, but the surplus must be restored as  
 6 provided in this subsection until ~~it~~ the surplus amounts to 50% of the aggregate paid-up capital stock. A larger  
 7 surplus may be created.

8 ~~(2) A dividend larger than the previous 2 years' net earnings may not be declared without giving notice~~  
 9 ~~to the division.~~

10 (2) A bank must receive prior approval from the department to pay a dividend if:

11 (a) the bank is rated lower than a 1 or a 2 using the uniform financial institutions rating system adopted  
 12 by the federal financial institutions examination council; or

13 (b) the dividend would reduce the tier 1 leverage ratio below 8%.

14 (3) The department may require a bank to suspend the payment of any or all dividends until all  
 15 requirements imposed in writing on the bank by the department have been met.

16 ~~(3)(4)~~ (4) Losses sustained by a bank in excess of ~~its~~ the bank's undivided profits may be charged to and  
 17 paid from the surplus, but the surplus must be restored in the manner provided in subsection (1) in the amount  
 18 required by this chapter."

19

20 **Section 22.** Section 32-1-468, MCA, is amended to read:

21 **"32-1-468. Removal of directors, officers, or employees -- hearing.** (1) A director, officer, or  
 22 employee of a bank who is found by the department, after examination, to be negligent, dishonest, reckless, or  
 23 incompetent or to have violated 32-1-325, 32-1-464, 32-1-472, or 32-1-473 must be removed from office by the  
 24 board of directors of the bank on the written order of the department. If the directors neglect or refuse to remove  
 25 the director, officer, or employee and any losses accrue to the bank by reason of the negligence, dishonesty,  
 26 recklessness, or incompetency of the director, officer, or employee, the written order of the department is  
 27 conclusive evidence of the negligence of the directors failing to act as provided in this section in any action  
 28 brought against ~~them~~ the board of directors by a depositor or creditor for recovery of losses.

29 (2) If the board of directors refuses to remove the director, officer, or employee on order of the  
 30 department, the board of directors may file a request for hearing pursuant to the Montana Administrative

1 Procedure Act."

2

3 **Section 23.** Section 32-1-506, MCA, is amended to read:

4 **"32-1-506. Assessment on capital stock to make good impairment.** (1) When the department  
5 determines that an impairment of capital exists in a bank, ~~it~~ the department may notify the board of directors of  
6 the bank by written notice that the impairment exists, stating the amount of the impairment in dollars and  
7 percentage of the capital stock, ~~and it.~~ The department may order the board to make good the impairment within  
8 90 days from date of the notice.

9 (2) The board of directors shall, upon receipt of notice, convene and pass a resolution reciting the receipt  
10 of the notice of impairment and calling a special meeting of the stockholders of the bank in the manner provided  
11 in their bylaws.

12 (3) The stockholders at the meeting shall pass a resolution reciting the facts of receipt of notice from the  
13 department, notice of impairment, and notice of meeting and assessing themselves by assessing the stock of  
14 record. Payment of the assessment must be made within the time limit specified by the department in the notice  
15 of impairment.

16 (4) If there is any stock remaining on which the assessment is not paid as provided in this section, the  
17 stock or a part of the stock that is necessary to pay the assessment must be sold by the board of directors, acting  
18 through the cashier or secretary of the bank, at public or private sale, as appears best for all concerned, not less  
19 than 30 days after the day fixed for payment of assessment.

20 ~~(5) Notice of the time and place of the sale must be given by certified mail~~ common courier with tracking  
21 capability to the stockholders by the board through ~~its~~ the bank's cashier or secretary at least 14 days prior to the  
22 sale.

23 ~~(6) A sale of stock as provided in this section causes an absolute cancellation of the outstanding~~  
24 ~~certificate or certificates evidencing the stock sold and makes them void in the hands of the stockholder or the~~  
25 ~~stockholder's assigns or pledgees.~~

26 ~~(7) A~~ The bank shall issue a new certificate; must be issued by the bank

27 (a) to the purchaser for the number of shares purchased; ~~and a new certificate must be issued~~

28 (b) to the stockholder of record, and The new certificate must be delivered to the purchaser, stockholder,  
29 or any pledgee or assignee of the stock for the remaining shares, if any.

30 (8) The record of the original certificate sold must be marked canceled on the ~~books~~ records of the bank,

1 and that record is prima facie evidence of the regularity of the proceedings for the sale of the stock.

2 ~~(5)(9)~~ If a bank fails to make good its capital impairment ~~upon~~ on demand of the department, as provided  
3 in this section, the department may immediately take charge of that bank and proceed to liquidate it as in the case  
4 of insolvency.

5 ~~(6)(10)~~ If the stock does not sell for enough to pay the assessment ~~on it~~ that is owed, the board of  
6 directors may sue in the name of the corporation to collect the deficiency from the stockholder of record whose  
7 stock has been sold for the assessment."

8

9 **Section 24.** Section 32-1-532, MCA, is amended to read:

10 **"32-1-532. Claims -- allowance and rejection.** (1) Except as provided in subsection (6), the department  
11 shall reject or allow all claims in whole or in part and on each claim allowed shall designate the order of its priority.

12 (2) If a claim is rejected or an order of priority allowed lower than that claimed, notice must be given the  
13 claimant personally or by ~~certified mail~~ common courier with tracking capability and an affidavit of the service of  
14 the notice, which is prima facie evidence of service, must be filed in the office of the department.

15 (3) The action of the department is final unless an action is brought by the claimant against the bank in  
16 the district court of the county in which the bank is located within 90 days after service. An appeal from the  
17 department's allowance may also be taken by any party in interest by serving notice on the department, stating  
18 the grounds of objection and filing ~~it~~ an action in that court within 30 days after allowance.

19 (4) Within 5 days after the notice, the department shall file in the court and serve on the appellant a copy  
20 of the claim and its reasons for allowance.

21 (5) The court shall, after 5 days' notice of time and place of hearing on the issues raised, hear the proof  
22 of the parties and enter judgment reversing, affirming, or modifying the department's action.

23 (6) If the federal deposit insurance corporation is appointed as the liquidating agent, the provisions of  
24 subsections (1) through (5) do not apply and notice to creditors must be given pursuant to federal law."

25

26 **Section 25.** Section 32-1-911, MCA, is amended to read:

27 **"32-1-911. Notices and orders -- manner of service -- copies to federal authorities.** Any service  
28 required or authorized to be made by the director pursuant to this part ~~shall~~ must be made ~~upon~~ on individual  
29 board members and officers by personal service and may be made ~~upon~~ on institutions by registered or certified  
30 mail or common courier with tracking capability or in ~~such other~~ any manner reasonably calculated to give actual

1 notice as the director by rule or otherwise may provide. Copies of any notice or order served by the director  
 2 pursuant to the provisions of this part ~~upon~~ on any institution or any board member or officer ~~thereof~~ of the  
 3 institution or other person participating in the conduct of ~~its~~ the institution's affairs may also be sent to the  
 4 appropriate federal supervisory authorities."

5

6 **Section 26.** Section 32-3-106, MCA, is amended to read:

7 **"32-3-106. ~~Instruction in schools -- establishment~~ Establishment of a student financial institution.**

8 ~~With the consent and under the direction of the state superintendent of public instruction, the organization,~~  
 9 ~~management, and extension of credit unions as set forth in this chapter may be taught in the public schools of~~  
 10 ~~this state, and the boards of trustees of a high school district, as defined in 20-6-101, or a K-12 district, as defined~~  
 11 ~~in 20-6-704, Credit unions may establish a school financial institution, as defined in 32-1-115 and in accordance~~  
 12 ~~with 32-1-115.~~"

13

14 **Section 27.** Section 32-6-103, MCA, is amended to read:

15 **"32-6-103. Definitions.** As used in this chapter, unless the context otherwise requires, the following  
 16 definitions apply:

17 (1) "Customer", in relation to a financial institution, means a holder of a demand or time account or a  
 18 membership share in the institution or a person who is a borrower or a mortgagor; in relation to a merchant, it  
 19 means a purchaser of goods or services.

20 (2) "Department" means the department of administration.

21 (3) (a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by  
 22 check, draft, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or  
 23 magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an  
 24 account. The term includes but is not limited to point-of-sale transfers, automated teller machine transfers, direct  
 25 deposits or withdrawals of funds, and transfers initiated by telephone. It also includes a transfer resulting from  
 26 a debit card transaction, including a transaction that does not involve an electronic terminal at the time of the  
 27 transaction.

28 (b) The term does not include payments made by check, draft, or similar paper instrument at an  
 29 electronic terminal.

30 (4) "Electronic terminal" means an electronic device, other than a telephone operated by a consumer,



1 through which a consumer may initiate an electronic funds transfer. The term includes but is not limited to  
2 point-of-sale terminals, automated teller machines, and cash dispensing machines.

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

9 (6) "Merchant" means a natural person, corporation, partnership, or association engaged in buying and  
10 selling goods or services, except that a financial institution is not a merchant.

11 (7) "Person" means an individual, partnership, corporation, association, or any other business  
12 organization.

13 (8) "Premises" means those locations where, by applicable law, financial institutions are authorized to  
14 maintain a principal place of business and other offices for the conduct of their respective businesses. ~~The term~~  
15 ~~includes a detached drive-in or walk-up facility approved under 32-1-372.~~

16 (9) (a) "Satellite terminal" means any machine or device that is located off the premises of a financial  
17 institution and that a financial institution or its customers may use to carry out electronic funds transfers.

18 (b) Satellite terminal includes:

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

22 (ii) a point-of-sale terminal, which means a satellite terminal located on the premises of a merchant,  
23 operated by a customer, a merchant, or the merchant's employees solely to debit or credit a customer's deposit  
24 or share account in a financial institution and solely to credit or debit the merchant's account commensurately for  
25 transactions in goods or services. A point-of-sale terminal need not be activated by a unique personal  
26 identification device. A merchant has the option, if the necessary computer capability exists at a reasonable cost,  
27 of selling goods or services by point-of-sale terminals with the electronic funds transfer taking effect at the time  
28 of the transaction or at a stated time after the transaction.

29 (c) The definition of satellite terminal does not include and nothing in this chapter may be construed to  
30 apply to:

- 1 (i) an automated teller machine located on the premises of a financial institution;
- 2 (ii) an automated clearinghouse or any equivalent system designed to transfer funds between financial
- 3 institutions; or
- 4 (iii) a point-of-sale terminal that is used by a merchant in the merchant's business only and does not
- 5 provide access to a financial institution.

6 (10) "Unique identification device" means a magnetic encoded plastic card or equivalent device that  
 7 contains either a number or a dollar balance, or both, that is unique to a customer and that is issued by a financial  
 8 institution, merchant, or other person."

9  
 10 **NEW SECTION. Section 28. Repealer.** The following sections of the Montana Code Annotated are  
 11 repealed:

- 12 32-1-381. Purpose.
- 13 32-1-383. Acquisition of bank or bank holding company by bank holding company not located in this state
- 14 -- limitations.

15  
 16 **NEW SECTION. Section 29. Codification instruction.** [Sections 1 through 5] are intended to be  
 17 codified as an integral part of Title 32, chapter 1, and the provisions of Title 32, chapter 1, apply to [sections 1  
 18 through 5].

19 - END -