MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on February 21, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Fred Van Valkenburg (D)

Members Excused:

Bill Yellowtail (D)

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 339

Presentation and Opening Statement by Sponsor:

Senator Doherty, District 20, said SB 339 deals with taxation of financial institutions that do business in Montana but are located out of state. Multi-state banking corporations are spreading throughout the United States. The bill gives the state authority to tax non-resident lenders. Non-resident lenders have a presence in this state and do business in this state. This is a model act developed by the Multistate Tax Commission and three other states, Indiana, Minnesota, and Tennessee, have adopted the act to date.

Senator Doherty showed the committee several letters from companies offering him a line of credit. All of the companies are from out of state and none of them are registered with the Secretary of State.

Senator Doherty presented proposed amendments (Exhibit #1) and reviewed the bill for the committee. He noted Section 6 is the heart of the bill and indicated there are amendments exempting credit unions. Apportionment and distribution of the proceeds are explained in amendment #6.

Proponents' Testimony:

Samantha Sanchez, Montana Alliance for Progressive Progress, presented her testimony in support of the bill (Exhibit #2).

Opponents' Testimony:

George Bennett, Montana Bankers Association, expressed strong opposition to the bill. As he understands the bill, if a Montana bank makes a loan to a Montana resident and the Montanan moved to another state and stayed there 183 days or if the collateral that secured the loan moved to another state, the Montana bank would be deemed to be doing business in those states and would have to apportion part of its income to those state. Under terms of this bill, the activities of the customer would drive the tax rather than the activities of the financial institution which is a radical departure from nexus. Nexus defined means "constitutionally, no state can tax anyone unless there is sufficient economic presence in that state to allow taxes". As examples, he asked if income of airline employees who fly over the state can be taxed or if catalog companies who mail catalogs into the state and take mail orders can be taxed.

He noted the bill is very complex in the tracking and recording procedures for banking transactions. All debtors and collateral will have to "tracked" so that the bank knows where it is at all times. He said there is the distinct possibility that a bank will another state $50, but will have spent $500 to keep the reports and process the transaction.

Mr. Bennett presented a report from the Multistate Tax Commission, Dan Bucks, Executive Director, recommending holding this concept in abeyance until further study could be completed (Exhibit #3). Mr. Bennett said there are serious due process, equal protection, and mechanics of law questions raised by the bill, and fiscal as well as legal ramifications need to be studied further.

John Cadby, Montana Bankers Association, presented a study on the market state approach for taxation of income earned by out-of-state banks written by William J. Hunter, Marquette University (Exhibit #4). Mr. Cadby said the committee should take another look at taxing credit unions in the state as they certainly meet the criteria in the bill.

Dennis Burr, Montana Taxpayers Association, said the nexus issue is a critical factor in the bill. He said there will be a great deal of litigation if the bill is passed.

Charles Brooks, Montana Retail Association, presented his testimony in opposition to the bill (Exhibit #5).

Questions From Committee Members:

Senator Thayer asked how the provisions of the bill would affect secondary market paper such as mortgages.

Mr. Bennett replied a mortgage purchase by an out-of-state company does not constitute nexus. In order to establish nexus there must be a direct loan or solicitation. He further explained the bill is an apportionment bill. The apportionment is on a formula based on receipts, property, and payroll which is extremely complex. He noted financial institutions income is computed the same way as other businesses, however, the distribution is different.

Senator Van Valkenburg asked Mr. Adams to respond to the comment from Mr. Bennett that banks will end up collecting less than they expend in the collection process.

Mr. Adams said this is a very progressive bill. Financial institutions are just waiting for a test lawsuit. The Multistate Tax Commission would end up doing a lot of enforcement if the bill were adopted. In the short term, he did not feel it was likely that banks would collect less than they spent in collecting, however, he felt in the long term when all the states were operating under the Act, that might be the case.

Closing by Sponsor:

Senator Doherty closed by noting banks in this state are not the "evil empire". He said banks have stood by their customers during Montana's hard times. He said Montana banks are at a competitive disadvantage with the large multi-state institutions. The "out-of-staters" are not contributing to the local communities, the state, or to the tax base. He urged the committee to give serious consideration to the provisions of the bill.

HEARING ON SENATE BILL 151

Presentation and Opening Statement by Sponsor:

Senator Eck, District 40, said the bill extends medicaid eligibility level from 133% of the poverty level to 185% of the poverty level which is the maximum the federal government allows. The federal government pays 72 cents for every dollar Montana spends. At the 185% level, a young woman in a family of two would be eligible if her income did not exceed $15,577. A family of three could have an income of up to $19,536 and still be eligible.

The bill was originally heard in Public Health and has come to Taxation because of the new tax measure included in it. Every employer will pay a payroll tax on every employee who is not covered under a health care plan or who do not earn $6000 per quarter. The increased costs would amount to approximately $700,000 per year, the tax would be based on that amount. There are an estimated 56,320 uninsured employees earning less that $24,000 per year. DOR estimates there are 140,000 Montanans who do not have heath insurance. Senator Eck presented DOR's proposed amendments to the bill and an accompanying explanation of the amendments (Exhibit #6). Senator Eck also submitted a graph from the Obstetrics Department of Kalispell Regional Hospital (Exhibit #7) and a revised fiscal note (Exhibit #8).

Proponents' Testimony:

Van Kirke Nelson, Montana Society American College of OB-GYN, presented his testimony in support of the bill (Exhibit #9).

John Ortwein, Montana Catholic Conference, expressed support for the bill based on concern for life. Many long term health difficulties and even mental retardation can be prevented by good prenatal care. This bill is a reasonable way of ensuring prenatal care for those mothers and children who are at risk because of low-income and no insurance.

Dianne Sands, Montana Women's Lobby, said two-thirds of those who earn minimum wage age are single women with children. She also presented testimony from the Women's Opportunity and Resource Development, Inc. in Missoula in support of the bill (Exhibit #10).

Paulette Kohman, Montana Council for Maternal and Child Health, presented her testimony in support of the bill (Exhibit #11).

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Thayer said he felt more efforts and money need to be directed toward education and training in order to get women to seek prenatal care. The program currently in place is not being utilized fully, he felt.

Ms. Kohman said the advertising is just starting and over the course of the next two weeks will be fully covered on radio and television in the "Baby Your Baby" promotion. Department of Health outreach stations contracting with local Health Departments will be working to seek out those mothers needing prenatal care and providing them with services and support services to access the health care they need.

Senator Doherty said three doctors in Great Falls have told him they will no longer accept medicaid obstetric cases.

Van Kirke Nelson replied that is not unusual all across the state. He felt doctors have a moral obligation to provide services to all those in need. He said in his community of Kalispell he and the two other doctors in his clinic provide 60-70% of all the medicaid obstetrical services in the county.

Closing by Sponsor:

Senator Eck closed said there will be more and more education in this area as it has been proven without doubt that good prenatal care cuts health care costs considerably. She noted in Bozeman doctors are dividing up and sharing the medicaid cases so that no one is turned away from service. She said the bill is a fair and equitable approach to providing the funding necessary to increase the reimbursement levels.

EXECUTIVE ACTION ON SENATE BILL 115

Amendments, Discussion, and Votes:

Senator Van Valkenburg moved to amend the bill to insert amendments that had been inadvertently left out of the original amendments (as per the attached standing committee report).
The motion CARRIED unanimously.

Recommendation and Vote:

Senator Van Valkenburg moved SB 115 Do Pass As Amended.

The motion CARRIED unanimously with Senators Brown and Yellowtail absent.

ADJOURNMENT

Adjournment At: 10:00 a.m.

SENATOR MIKE HALLIGAN, Chairman

JILL D. ROHYANS, Secretary

MH/jdr

DATE 2/21/91

COMMITTEE ON Taxation

SB 151 SB 339

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
GEORGE T. BENNETT	MONTANA BANKERS ASSN	SB339		X
Herschel Robbins	MCSS Valley Dev. Corp	SB 151		X
JOHN CADBY	MT BANKERS ASSN	SB339		X
Samantha Sanchez	MAP	SB339	X	
Charles R. Brooks	MT Retail Assoc	SB339		X
Dennis Adam	DOR			
Mary McCue	MMHCA	SB151	X	
Paulette Kohman	MT Council for Mat/Ch. Hlth	SB151	X	
H. Buck Boles	MT CHAMBER of COMMERCE	SB339		X
Dennis Burr	MT Taxpayers Assoc	SB339		✓
[illegible]	MT Cattlemen's Assn	SB 151	X	
John Johnson	MT Cattlemen's Assn	SB 151	X	
Carol Nelson	Montana Petroleum Association	SB151	X	
Kay Foster	Self	SB151	X	
Judith H Carlson	MT Ch. NASW	SB151	X	

(Please leave prepared statement with Secretary)

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/21/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL			X

Each day attach to minutes.

SENATE TAXATION
EXHIBIT NO. 1
DATE 2/21/91
BILL NO. SB 339

Purpose of Amendments to Senate Bill 339
1st Reading Copy
Prepared by Department of Revenue
(February 19, 1991)

Amendment 1. This amendment would define the minimum activity that the Department could consider solicitation. This language comes from the proposed Multi-state Tax Commission regulations that are the model for this legislation.

Amendments 2 and 3. Section 32-3-901, MCA exempts credit unions organized under state or federal law from state income tax. Amendments 2 and 3 continue that exemption by removing credit unions from the definition of financial institutions.

Amendments 4 and 5. The Uniform Division of Income for Tax Purposes Act is codified both at section 15-1-601 and Title 15, Chapter 31, Part 3. These amendments change the cross reference to 15-31-301 et. seq. for clarity.

Amendment 6. Under section 15-31-701 and 702, the funds collected from the corporation license tax on banks and savings and loan associations are distributed 20% to the general fund and 80% to the county where the bank is located. This amendment would clarify that the 20/80 allocation applies to the corporation license tax proceeds collected from banks located within a county. Corporation license tax collected from financial institutions not physically located in one Montana county would be not be subject to 15-31-701 or 702. Therefore, the funds would be distributed in the same manner as other corporate license tax.

SENATE TAXATION
EXHIBIT NO. 1
DATE 2/21/91
BILL NO. SB 339

Amendments to Senate Bill 339
1st Reading Copy
Prepared by Department of Revenue
(February 19, 1991)

1. Page 7, line 17.
Following: "relationship."
Insert: "A financial institution is presumed, subject to rebuttal, to be engaged in regular solicitation within this state if during the tax period it:

(A) has entered into direct debtor-creditor relationships with one hundred or more residents of the state; or

(B) has an average during the tax period of ten million dollars or more of assets and deposits attributable to sources within the state; or

(C) has in excess of five hundred thousand dollars in receipts attributable to sources within this state."

2. Page 10, line 6.
Following: "institution."
Insert: "A credit union organized pursuant to Title 32, Chapter 3, is not a financial institution for purposes of [Section 2]."

3. Page 13, line 24.
Strike: "(iv) a credit union incorporated or organized under the law of any state;"
Renumber: subsequent subsections

4. Page 16, line 2.
Following: "in"
Strike: "15-1-601"
Insert: "Title 15, Chapter 31, Part 3"

5. Page 17, line 5.
Following: "under"
Strike: "15-1-601"
Insert: "Title 15, Chapter 31, Part 3"

6. Page 26.
Following: Line 17
Insert: "NEW SECTION 12. Section 15-31-702, MCA is amended to read:

"15-31-702. Distribution of corporation license taxes collected from banks or savings and loan associations. (1) All corporation license taxes collected from banks and savings and loan associations located within a county shall be distributed in the following manner:

(a) 20% must be remitted to the state treasurer to be allocated as provided in 15-1-501(2); and

(b) 80% is statutorily appropriated, as provided in 17-7-502,

for allocation to the various taxing jurisdictions within the county in which the bank or savings and loan association is located.

(2) The corporation license taxes distributed under subsection (1)(b) shall be allocated to each taxing jurisdiction in the proportion that its mill levy for that fiscal year bears to the total mill levy of the taxing authorities of the district in which the bank or savings and loan association is located.

(3) "Taxing jurisdictions" means, for the purposes of this section, all taxing authorities within a county permitted under state law to levy mills against the taxable value of property in the taxing district in which the bank or savings and loan association is located.

(4) If a return filed by a bank or savings and loan association involves branches or offices in more than one taxing jurisdiction, the department of revenue shall provide a method by rule for equitable distribution among those taxing jurisdictions."

Renumber: subsequent subsections

A&M Work Coalition ~~of Labor, Women~~
representing 30,000
Montana Households

SENATE TAXATION
EXHIBIT NO. 2
DATE 2/21/91
BILL NO. SB 339

SB 339 DOHERTY

IMPOSES FORMULA APPORTIOMENT ON BANKS

SB 339 simply requires financial institutions to calculate their Montana income the same way other corporations do if it is a multistate, unitary corporation. In fact, it can be argued that banks should be taxable under existing statutes, but for their refusal to admit that they do business in Montana
The 3-factor formula now imposed by MT tax (15-31-305-312) apportions nationwide income according to the fraction of sales, payroll and property within the state of Montana. SB 339 has a similar formula based on the fraction of receipts, property and payroll within Montana

The opponents of this bill will claim that the apportionment of nationwide income by a formula instead of their geographic accounting will impose Montana tax on income received in other states and that the accounting necessary to comply with this formula is too complicated.

It is important to remember that the starting premise of formula apportionment is that geographic accounting is inherently inadequate in apportioning the income of a multistate corporation. They will claim they do only $x worth of transactions in Montana but that ignores the fact that their Montana operations are an integral part of their nationwide financial network, and that network shares in the benefits of common management, common assets and common personnel.

Formula apportioment is an old and well-respected idea in the structure of state taxes. The idea began in the 1800's when the trancontinental railroad and telegraph were completed. Local property tax assessors realized that the ~~value of~~ the track or telegraph line that ran through their state was considerably more valuable (mile for mile) than the tracks and lines that were entirely local because it was part of a large integrated system, even though physically the installations were the same. They concluded it was fairer to value the property in their state as a fraction of the whole system.

This was later applied to income taxes. In 1922 the Court upheld the State of Connecticut in apportioning the income of the Underwood typewriter company to the state. Underwood carried on all of its

management and manufacturing activities in Conn but sold only 5% of its typewriters there. The court agreed that to tax only 5% of its income would be understate the presence of the company in Connecticut and they upheld a two factor formula, rejecting in the process the claims of the company that they could prove that only 5% of their income was "earned" in Connecticut. Since that time, more than 30 states have adopted formula apportionment, using the three factor formula originally developed in Massachusetts. I have never seen a case in which the three factor formula was struck down or even criticized as unfair.

In fact, taxes that are not apportioned (in other words, are based only one factor such as sales or property value is, according to the U..S. Supreme Court, inherently suspect.

The Supreme Court has recently examined the formula apportionment of the major oil companies and specifically rejected the companies' massive accounting evidence which tended to show that they operated at a loss in Vermont and Wisconsin. It is easy for a multistate corporation to downstream their profits to states with lower tax rates or to foreign holding companies. What Vermont quickly realized was that Mobil had more accountants than they did and they could not demand tax records from other states to verify the company's claims. As long as they played that game they lost.

I recommend that the committee refuse to play that game too and recommend a do pass on this bill.

SENATE TAXATION
EXHIBIT NO. 3
DATE 2/21/91
BILL NO. SB 339

RESOLUTION OF THE EXECUTIVE COMMITTEE OF THE MULTISTATE TAX COMMISSION ON INTERIM REPORT OF HEARING OFFICER RE PROPOSED M.T.C. REGULATION IV.18.(i): ATTRIBUTION OF INCOME FROM THE BUSINESS OF A FINANCIAL INSTITUTION

WHEREAS, the Executive Committee has received the Interim Report of Hearing Officer Regarding Adoption of Proposed M.T.C. Regulation IV.18.(i): Attribution of Income from the Business of a Financial Institution dated November 9, 1990; and

WHEREAS, the Executive Committee has reviewed said Interim Report and determines that said Interim Report should be accepted in its entirety; and

WHEREAS, the pending regulatory proposal was originally scheduled for Commission action at its July, 1991 meeting; and

WHEREAS, the importance of the pending regulatory process requires that economic and other data be developed in the public record that is sufficient for the purposes of the Hearing Officer in the making of his recommendations to the Executive Committee herein; and

WHEREAS, the Executive Committee wishes to provide additional time for a thorough and studied consideration of the proposed Regulation and the facts and circumstances relating thereto; and

WHEREAS, the pending case of Ford Motor Credit Company, Inc. v. Florida Department of Revenue, No. 88-1847 will likely be decided by the U.S. Supreme Court within the next several months and that such decision may provide valuable insight into the method by which income derived from intangibles may be attributed.

Headquarters Office:
444 North Capitol Street, N.W.
Suite 409
Washington, D.C. 20001
(202) 624-8699

New York Audit Office:
25 W. 43rd Street, Suite 212
New York, NY 10036
Telephone (212) 576-1820

Chicago Audit Office
30 W. Washington, Suite 1000
Chicago, Illinois 60602
Telephone (312) 263-3232

Houston Audit Office
One Park 10 Place, Suite 128
Houston, Texas 77084
Telephone (713) 492-2260

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Executive Committee adopts all of the findings, conclusions and recommendations of the Hearing Officer as set forth in his Interim Report dated November 9, 1990.

IT IS FURTHER RESOLVED that the Executive Committee directs the Hearing Officer to keep the Executive Committee apprised of all developments in this matter.

IT IS FURTHER RESOLVED that the Executive Director develop and submit proposals for securing the data referred to in the Hearing Officer's Interim Report.

IT IS FURTHER RESOLVED, in the interest of providing sufficient time for the further development of the proposed Regulation, that it not be scheduled for action by the Commission in July of 1991; and that it will be scheduled for action by the Commission after completion of the public hearing process and upon further direction of the Executive Committee.

Adopted by the Executive Committee of the Multistate Tax Commission on this 9th day of November, 1990.

ATTEST: /s/ Dan R. Bucks
Dan R. Bucks
Executive Director

Multistate Tax Commission

Multistate Tax Commission
386 University Avenue
Los Altos, CA 94022
Phone (415) 941-0556
Fax (415) 941-0557

ALAN H. FRIEDMAN, General Counsel

Multistate Tax Commission
444 North Capitol St., N.W.
Suite 409
Washington, D.C. 20001
Phone (202) 624-8699

INTERIM REPORT OF HEARING OFFICER REGARDING ADOPTION OF PROPOSED M.T.C. REGULATION IV.18.(i): ATTRIBUTION OF INCOME FROM THE BUSINESS OF A FINANCIAL INSTITUTION

On May 10, 1990, the Executive Committee of the Multistate Tax Commission adopted a resolution ordering a public hearing to be held pursuant to Article VII.2. of the Multistate Tax Compact regarding the adoption of proposed M.T.C. Regulation IV.18.(i): Attribution of Income from the Business of a Financial Institution. Two sessions of that public hearing have already been held and two sessions remain to be held. Even though the public hearing process has not as yet been completed, the Hearing Officer now has sufficient information that suggests he issue this Interim Report in order to submit certain recommendations to the Executive Committee with respect to the future course of these proceedings. Since the Hearing Officer has not had the benefit of the submissions yet to be made, it is to be emphasized that he is making no recommendations at this time with regard to the substance of any provision contained in the proposed Regulation.

INTERIM FINDINGS

The Hearing Officer, based upon the public record developed thus far, finds that the record falls short of providing sufficient data upon which he can appropriately determine several issues that impact the effectiveness of various provisions contained in the proposed Regulation. For example, the record is thus far bereft of economic and other data regarding such issues as (1) the approximate amount of "nowhere" income that results from the apportionment methodologies currently employed by the states to impose their income or franchise taxes upon financial institutions

transacting business in interstate commerce; (2) the extent to which foreign financial institutions register with the states and pay their income or franchise taxes; (3) the extent to which community banks may be affected by the proposed Regulation in terms of competitive advantages and disadvantages that may result from a state's adoption thereof; and the like.

In addition, the Hearing Officer notes that one of the elements contained in the proposal - the "regular solicitation" nexus aspect of the proposal (referred hereafter as "economic presence") - has been called into question by certain representatives of the financial institutions industry. The Hearing Officer finds that it is in the best interests of the states and the affected industry members that this limited issue be judicially addressed and settled as soon as practicable. The Hearing Officer anticipates that the states' various litigation efforts with regard to the case of National Bellas Hess, Inc. v. Department of Revenue of State of Illinois, 386 U.S. 753 (1967), or the pending case of Alabama v. Credit Card Companies, No. 88-288-G, Fifteenth Judicial Circuit (3/7/90), app. pend., may provide some guidance within the next one to two year period as to the extent and application of the economic presence nexus principle.

The Hearing Officer firmly believes that an out-of-state business may create an "economic presence" in its market state, through regular or systematic solicitation by any means; and that such presence would be sufficient to constitutionally require that business to comply with various state tax duties, even though that business is not physically present within the state. However, many members of the financial industry will not accept that proposition unless and until the United States Supreme Court clearly affirms that legal principle.

Lastly, the case of Ford Motor Credit Company, Inc. v. Florida Department of Revenue, No. 88-1847 is now pending before the United States Supreme Court. The decision in the Ford Motor Credit case

may well provide added guidance as to the power of the state of commercial domicile to impose an unapportioned tax upon intangibles or income derived from the ownership thereof.

CONCLUSIONS AND RECOMMENDATIONS

Based upon the foregoing findings, the Hearing Officer concludes that a sufficiently studied and thorough development of the proposed Regulation cannot readily be accomplished during the presently scheduled timetable for the completion of the regulatory process. Therefore, the Hearing Officer recommends that the current timetable for completion of the pending regulatory process be held in abeyance until further directed by the Executive Committee. During the interim period, the Hearing Officer recommends the following specific actions be taken:

1. That the Hearing Officer hold the two remaining public sessions and such other sessions as he determines appropriate and keep the public record open until further directed by the Executive Committee.

2. That the Hearing Officer continue to seek from the states and the financial institutions industry such additional data that may be necessary to support a final Hearing Officer recommendation.

3. That the Multistate Tax Commission, through its Executive Committee, continue to monitor and support various state efforts to obtain an early judicial declaration concerning the "economic presence" and other nexus principles that may be appropriate for industries that transact business across state lines without being physically present in the market state.

4. That the Hearing Officer continue to review appropriate principles for establishing nexus with regard to the financial institutions industry in addition to that provided in the

current draft of the proposed Regulations.

5. That the Hearing Officer continue to provide the point of contact for industry input in order to further the states' understanding of the potential impact of the proposed Regulation.

6. That, given the time necessary for the further development and consideration of the public record, this matter not be scheduled for Commission action in July of 1991 as originally proposed; but it be scheduled for action upon completion of the public hearing process and as further directed by the Executive Committee.

This Interim Report of the Hearing Officer is submitted this 9th day of November, 1990.

Alan H. Friedman
Hearing Officer

AN ECONOMIC ANALYSIS OF THE MARKET STATE APPROACH FOR THE TAXATION OF INCOME EARNED BY OUT-OF-STATE BANKS

William J. Hunter, Ph.D
Associate Professor of Economics
Marquette University

INTRODUCTION

The revolution in computer technology of the last two decades has vastly improved competition and the delivery of services in the banking industry. Automatic teller machines have freed the average banking customer from the limits that normal business hours place on her ability to conduct routine financial transactions. Computer technology has also provided firms and individuals of even modest means with the ability to "shop" nationally for the most favorable rates available for both deposits and loans. While the benefits of enhanced interstate competition might seem so obvious that they scarcely need to be enumerated, they are perhaps too obvious in that they are taken for granted in the current policy debate over state taxation of the earnings of out-of-state banks. Yet these taxes portend such a serious threat to interstate competition that the potential economic consequences should be the focal point of the debate.

The rational for states taxing of out-of-state banks seems to rest on the assumption that financial transactions conducted

by non-resident institutions constitutes "market exploitation."[1] This theory seems to imply that the benefits of competition such as greater consumer access to credit, new and innovative financial services and the geographic spreading of risk are in some way exploitative and as a consequence require state corrective action through some form of taxation. From an economic perspective the merit of such a theory is highly suspect for it completely ignores the benefits that free markets provide to consumers as well as producers.[2] Certainly the exploitation assertion provides no basis for the evaluation of state tax policy. However, state taxation of out-of-state banking can and should be evaluated through commonly accepted economic principles of good tax policy.

In contrast to the exploitation hypothesis, economic analysis of state taxation of non-domiciliary financial institutions raises a variety of cautionary flags. Indeed, the full cost of this tax to a state and its residents may far outweigh the benefits brought to the state through higher tax revenues. Careful evaluation of market state taxation of non-resident banks raises several concerns as to whether this form of taxation constitutes good policy. Problems arise in the areas of excessive compliance costs, the potential for market

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[1] Sandra B. McCray, "State Taxation of New Banking Procedures," Tax Notes (June 4, 1990) p. 1231.

[2] Roger S. Cohen, "State Taxation of New Banking Procedures: A Reply," Tax Notes (July 30, 1990) pp. 631-32.

discrimination and the possibility the tax would constitute a barrier to trade. In addition, the excess burden of the tax -- economic jargon for the value of the change in consumer and firm behavior as a result of the tax -- may place a formidable cost on a state and its residents. The excess burden of state taxes on non-residents banks include the reduction in financial options for consumers and the loss of some inter-regional loans. In this respect the excess burden of the tax translates into greater financial market instability for states employing market based taxation, particularly during regional business cycles, and higher levels of risk for state financial systems.

POLICY EVALUATION - TAXATION OF NON-DOMICILIARY BANKS

State taxation of the income non-resident banks derive from transactions within that state raises several questions as to whether such taxes constitute reasonable tax policy. In particular, these taxes may violate several commonly accepted criteria for evaluating taxes. Specifically, market state based taxes can impose burdensome compliance costs on firms, are discriminatory in nature and reduce inter-state transactions. While the violation of any one of these criteria is sufficient to raise questions of the appropriateness of the tax, the potential impact of market based taxes on the efficiency of financial markets is cause for serious concern. The excess burden, measured in reduced availability of credit, adverse influence on state economic development and higher levels of financial market risk,

may be sufficiently great to caution against any policy which includes this form of taxation.

Compliance cost. It is generally accepted by economists and policy analysts that taxes should be imposed in a manner which tends to minimize compliance costs.[3] However, the high compliance costs has been the uniform experience among the states that tax the earnings of out-of-state banks. These costs can be excessive, especially for smaller financial institutions. First, the tax requires banks to alter their accounting procedures so as to be able to identify and track the location of their loans and other accounts contrary to the way they otherwise conduct business. Second, given individual state tax laws, banks will be required to use different accounting methods to calculate taxes due in each state. Indeed, even among the three states currently taxing the income generated by non-resident banks a variety of differences exist. For example, Tennessee and Indiana use a different apportionment factor for calculating taxable income than does Minnesota. All three states employ apportionment factors which are at variance with the Multistate Tax Commissions proposals. Since banks by changing their accounting systems incur relatively high fixed costs, small institutions will be particularly disadvantaged by this tax. Individuals and small firms will see higher borrowing costs as banks would be required

[3] Advisory Commission on Intergovernmental Relations, State Taxation of Banks: Issues and Options (December 1989) p. 7.

to spread these fixed accounting costs over a relatively small loan amounts.

In addition, there is the complicating factor of debt purchased on secondary markets. Financial institutions frequently sell debt, especially home mortgages, to other institutions or individuals. Typically these loans are "bundled" together and a bundle may contain debt instruments from a variety of locations. Should secondary debt be included in a state's definition of taxable base even higher compliance cost would result. Indeed, it is quite possible that the holders of this secondary debt may not even be aware of the tax liability attributable to particular debt bundles. Markets are likely to adjust to these conditions by developing a two tier system. The secondary market which would evolve from this arrangement would cause residents of market base tax states to experience higher borrowing costs.

A final element of the high compliance costs in taxing non-resident banks arises from the possibility of double taxation. If states fail to provide home banks and financial institutions with tax credits for taxes paid to other states, firms would be liable for taxes in two states on the income generated from a single source. Given the low nexus standards currently in place for the states utilizing this tax, it is quite probable that the cost of compliance, especially for small banks and those institutions with minimal exposure in these states, is far in excess of tax liability.

Discrimination. A second commonly accepted element of good tax policy is that the imposition of a tax should not discriminate among different lines of business.[4] However, state taxation of out-of-state financial institutions on income earned from in-state transactions is in itself discriminatory because it sets a different standard for financial institutions compared to retailers and manufacturers who are subject to the conditions set forth in P.L. 86-272.

In addition, there is the potential for discrimination in the treatment of business conducted through secondary markets. As was noted above the compliance cost associated with secondary market activity may be particularly onerous. Perhaps in consideration of this fact, Minnesota which initially included secondary debt in its tax of out-of-state banks later provided it an exemption, as does Indiana. (The Tennessee situation is less clear but it seems that the state has not exempted most secondary market transactions from their tax.[5]) Yet exempting secondary market transactions sets a double standard for taxing identical sources of income. For example, the secondary market exemption would imply that a out-of-state bank would not liable for taxes on income produced by a mortgage it purchased from an in-state

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[4] Ibid.

[5] Joe Huddleston, Commissioner, Tennessee Department of Revenue to Timothy L. Amos, General Counsel, Tennessee Bankers Association, correspondence dated July 17, 1990.

bank. However, the out-of-state institution would be liable for taxes if it originated the very same mortgage loan itself.

Taxes as a source of trade barriers. A third criteria for the evaluation of state tax policy is that a tax should not form an effective trade barrier by unduly hindering interstate markets or commerce.[6] However, states utilizing market state taxation run a real risk of erecting significant barriers to their local markets which will subsequently present problems for the national market. These barriers result, in part, from the high compliance costs discussed above and will cause some out-of-state banks to avoid conducting business in states which levy such taxes. In particular, these taxes are apt to substantially inhibit or even eliminate many smaller firms from participating in that state's financial markets. The loss of these firms, even though they may be small, can have a serious negative effect on the competitiveness of a state's financial markets. Indeed, the benefits of competition, lower borrowing costs and greater access to credit, will be reduced simply by the influence of the tax in dissuading outside banks even from considering an initial entry into that state's markets.[7]

Excess burden. Perhaps the most important criteria in the evaluation of tax policy is that taxes should be selected and

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[6] Idem, Advisory Commission on Intergovernmental Relations.

[7] See William J. Baumol, John C. Panzar, and Robert D. Willig, Contestable Markets and the Theory of Industry Structure (San Diego: Harcourt Brace Jovnovich, 1982).

levied in a way which minimizes the distortions (excess burden) they imposed on society.[8] It should be noted that every tax introduces some distortion because individuals and firms always alter their behavior in response to taxes. For example, a tobacco excise tax will cause the price of cigarettes to rise and consumers will make fewer purchases. The excess burden of the tobacco tax is the value to consumers and producers of the cigarettes not purchased. This excess burden may be quite large for a state that enacts a tax which is substantially different from that of surrounding jurisdictions. For example, it has been estimated that cigarette taxes in the State of Washington, which are higher than surrounding states, caused a decrease of 13% in state retail sales in the early 1970's.[9]

Similarly, the excess burden associated with state taxation of out-of-state banks is the reduction in the bank loans and the resulting higher credit costs for individuals and firms. The reduction in credit is a direct consequence of the imposition of the tax which reduces the rate-of-return earned by the taxed institutions. Bank profits are reduced not only by the amount of the tax itself but also by the added compliance costs, which for some firms can easily exceed their total tax obligation. Banks and other financial institutions will respond to this loss in

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[8] See Robin W. Boadway and David E. Wildasin, Public Sector Economics (Boston: Little, Brown and Company, 1984) Chapter 9.

[9] Paul Manchester, "Interstate Cigarette Smuggling," Public Finance Quarterly (1976), 225-37.

profit in one of two ways. First, banks may simply refrain from conducting business within the taxing jurisdiction. This cessation of business is most likely to occur among small banks or banks with minimal exposure within the state because these banks are particularly susceptible to high compliance costs. Second, financial institutions who remain active in the market will offset their lower profits by reducing their exposure to that market. Either response translate into fewer loans and a reduced availability of credit within the taxing jurisdiction.

The existence of the excess burden associated with taxing income of out-of-state financial institutions is undeniable. What is not known, however, is the magnitude of this burden. For state policy makers there are several important questions which need to be answered before considering the implementation of this tax. First, by how much will the tax raise the cost of borrowing within the state? Second, what impact will the tax have on the availability of credit for resident firms and individuals? Unfortunately, due to the newness these taxes there is little information available to provide direct estimates of the impact of the tax on state credit markets. However, studies of the impact state usury laws may provide some insight into the response of out-of-state banks to the imposition of state taxation. Usury laws were passed with the intention of helping borrowers but they had the opposite effect. Usury restrictions limit credit and ultimately raise borrowing cost for many individuals, just as market state taxation is likely to do.

While usury laws and state taxation are mechanically different, they each have the same impact on the banks subject to their conditions, both reduce lender rates-of-return. Usury restrictions lower profits through interest rates which restrict gross margins. Taxes reduce lender profit through the imposition of higher tax levies and compliance costs. Since the effects on financial institutions of both usury laws and taxation are the same, lower bank profits, usury studies can provide some insight into the potential impact of the market state approach to taxation on credit markets.

Usury studies indicate that financial institutions consistently respond to state imposed reductions in their rates of return in several ways. The most common response is for banks to move credit out of restricted markets by either shifting credit to other (non-usury) states or by switching to loans of a type not subject to interest rate control. This reaction is consistent with what would be the expected response of banks to states enacting market based income taxes. Banks will simply shift loans to states which do not have market based taxes.

The most disturbing aspect of the usury studies, and one which bodes ill for market based taxation of bank income, is the magnitude of the changes in credit availability attributable to state controls. For example, one study of Tennessee found its usury limit of 10% interest caused a thirty percent reduction in finance company loans during the period August 1977 to March

1978.[10] In total the decline in Tennessee based finance company loans outstanding was $150 million during this time period. Tennessee consumers also responded by transferring their business to neighboring states. For example, Tennessee experienced a sharp reduction in bank auto loans while auto loans made by banks in neighboring Alabama and Georgia rose sharply.[11] Even small changes in bank rates of return can lead to substantial amounts of credit loss. During the first four months of 1974 the States of Missouri and Mississippi had an 8% interest limit on home mortgages loans when FHA loan rates averaged about 8.78%. This small reduction in gross returns (less than 10%) lead to an 18% greater decline in residential loan contracts in Mississippi and Missouri than in neighboring states without the 8% limit.[12] Banks made up for their lower levels of local consumer loans by shifting funds out of state, particularly through loans to the Federal funds market.[13]

The evidence provided by usury studies suggest that states should act prudently when contemplating the imposition of the market state approach for taxing income from out-of-state banks. The impact of these taxes on state credit markets will be

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[10] Robert E. Keleher and B. Frank King, "Usury: The Recent Tennessee Experience," Economic Review: Federal Reserve Bank of Atlanta (July/August 1978) p. 75.

[11] Ibid., p. 76.

[12] Norman N. Bowsher, "Usury Laws: Harmful When Effective," Review: Federal Reserve Bank of St. Louis (August 1974) p. 19.

[13] Ibid., p. 22.

negative and, as indicated by a variety of usury studies, may be substantial. The possibility that the market state approach to taxation may seriously hamper state financial markets is not surprising for it merely reflects the flip side of the technology that has fostered the high level of interstate transactions. Technology has significantly reduced the cost to banks of entering out-of-state markets. That same technology means that banks can just as easily exit state markets when conditions dictate. Tax laws which reduce profits by imposing unreasonable high compliance costs on banks are likely to effect just such a market condition. Exiting a market may be so costless to out-of-state banks the overall impact on state credit markets could be substantial.

THE EFFECT OF MARKET STATE TAXATION ON STATE CREDIT MARKETS

The magnitude of changes in state credit markets brought about by the imposition of a market state approach in taxing the earnings of out-of-state banks and financial institutions will be influenced by several factors. The first is the degree to which out-of-state firms participate in the state's markets. Greater participation indicates a potential for significant reductions in the availability of credit within the taxing state. The second element is the level of tax burden, including the compliance costs, which falls on individual banks. Again the greater the cost incurred by a bank, relative to their income earned within the state, the higher the probability it will retreat from the

market. While the impact of the market state approach taxes on credit availability awaits empirical analysis, the types of changes states may expect in their credit markets are clear. Taxed induced changes in state credit markets will have a predictable influence on:

1. market competition and consumer costs,
2. state economic development,
3. regional business cycles, and
4. the level of risk undertaken in state financial markets.

Each of these conditions will be discussed in turn.

Market competition and consumer costs. State bank regulations are highly restrictive and only eleven states permit non-reciprocal nationwide banking.[14] Thus in the majority states, most out-of-state banks are prohibited from a brick and mortar presence. Indeed it is often in response to state restrictions that banks are forced to conduct business as a non-domiciliary institution. Yet, these banks can represent a significant competitive force in their out-of-state markets. Often out-of-state banks provide innovative products or services which may not be commonly available from local institutions. The motive for the out-of-state bank is enhanced profits which can only be accomplished when it provides value to local customers. Consequently, the more a state's financial markets are open to non-domiciliary institutions, the more local consumers benefit.

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[14] Idem, Advisory Commission on Intergovernmental Relations, Table 1.

State imposed taxes on non-domiciliary banks will reduce market competition by forcing out-of-state to reduce their tax liability by limiting their market exposure. Financial markets in these states will become more concentrated as out-of-state banks either leave the state entirely or reduce their business volume. Consumers will suffer in several ways when local credit markets become more concentrated. First, a reduction in the number of out-of-state banks means that residents will have fewer credit options and are therefore likely to face higher borrowing costs. Some services provided by out-of-state banks may be eliminated entirely. Second, non-domiciliary banks may refuse to take on small loans in order to compensate for the higher fixed cost associated with compliance. Lower income individuals and new business ventures are most likely to be affected by this change in loan policy.

State economic development. During the decade of the 1980's states and even cities committed billions of tax dollars to support private firms in an effort to promote and enlarge business development and employment opportunities. Tax dollars have been used to subsidize business plant and equipment, to provide interest subsidies for capital expansion, to provide venture capital for new businesses and to fund employee training. While these government efforts have committed billions of dollars to the cause of economic development, they pale in comparison to amount of private sector investments, in which banks play a major

role. Indeed commercial banks provide some $600 billion in commercial and industrial loans alone.

State taxation of the income earned by out-of-state banks hinders economic development by reducing the amount of funds these banks will commit to state credit markets. Consequently there will be fewer private funds available for direct capital investment. Interestingly, on the one hand states may commit billions of dollars in public funds to encourage private capital formation while simultaneously discouraging private investment through higher tax levies on out-of-state banks.

Regional business cycles. Generally the business cycle is thought of as a national phenomenon but regional impacts are often far more pronounced. It is not uncommon for one part of the country to be in an economic expansion while other regions languish in recession. The regional business cycle visits different credit needs and credit market conditions on states in each phase of the cycle. In general credit is readily available in states benefitting from an economic expansion. Although state firms need capital during expansions, strong revenue streams make it likely that they will be able to finance their continued growth through internally generated funds. In addition, rising personal income adds to bank deposits and provides additional resources to state credit markets. In contrast credit markets in states undergoing a recessionary phase of a regional business cycle are generally tighter because the recession induced decline in personal income

reduces the growth in bank deposits as individuals draw down savings for living expenses.

As businesses move out of recession they need credit to expand and build inventory but the depressed local credit market may not be able to accommodate their needs. Out-of-state banks may be an excellent source of credit in this critical time when local markets are hard pressed to fulfill credit needs. In effect banks by loaning outside of their region act to reduce the economic consequences of regional recessions by shifting some funds from healthy states to moving out of distress. By taxing the earnings of out-of-state banks, state may be erecting a barrier to this flow which could ultimately exacerbate local economic conditions. In effect market based state taxes could dampen total tax revenues by restricting the flow of an important source of business credit needed to lift the state out of recession.

Risk undertaken in state financial markets. Banks and other financial institutions are subject to a variety of risks. First, there is the risk inherent in any loan for ultimately some borrowers may not be able to repay the loan. Second, there is risk contained in an entire loan portfolio which is often sensitive to macroeconomic factors outside the control of the bank. For example business failures tend to rise during periods of economic recession. A deep recession can threaten a large portion of business loans held by individual banks.

As an offset to this risk banks diversify their loan portfolios by including loans made to a variety of industries or purposes. Banks can further reduce risk through a geographical diversification of their loans. Such diversification provides banks with additional safety, because even the depths of a severe national recession, many states and regions individually experience reasonably good economic conditions.

Market state based taxation encourages portfolio risk by inhibiting banks from making out of state loans. The impact of this is not merely limited to the portfolios of out-of-state banks alone but may cause local credit markets to incur more risk as well. The reason for the local market impact is simple. When a state discourages out-of-state banks from local lending, it forces its business firms to be more dependent on instate banks for credit. Local firms will have less access to credit, particularly when they need to offset the effects of the business cycle and will therefore, be more dependant on local banks for business loans. As a consequence state bank loans will be more locally concentrated than would otherwise be the case. The reduced access to out-of-state markets in combination with local concentration of loans made by state banks carries with it a higher degree of market risk than would otherwise occur. Market based state tax policy can have a significant effect on the risk inherent in local financial markets.

CONCLUSION

States which enact a market state approach for taxing the income earned by out-of-state banks will reduce the availability of credit to its residents and businesses. Owing to the newness of this form of taxation there is little direct evidence to determine the magnitude of this credit loss. However, economic theory suggests that states which enact this tax could experience a substantial loss of out-of-state bank credit. Theory implies that the tax could reduce financial market competition, raise borrowing costs, hinder state economic development and make state economies more susceptible to regional business cycles. All this suggests that states should act prudently by putting off the implementation of this tax until such time its full effects on markets are known.

SENATE TAXATION
EXHIBIT NO. 5
DATE 3/21/91
BILL NO. financial SB 339

WHY SENATE BILL 339 SHOULD BE OPPOSED

Senate Bill 339's proposed method for taxing financial institutions would impose multiple tax liabilities on many of the lenders relied upon by Montana consumers and businesses. Under this bill, financial institutions would be taxed on the portion of their total income that is derived from loans made within the state. Most other states tax only their own banks, not those from other states. So even though Washington, for example, does not tax Montana banks when they do business in Washington, under this bill Montana would tax Washington banks when they do business in Montana.

Charles R. Brooks
Executive Vice President

318 N. Last Chance Gulch
(406) 442-3388

Executive Offices
P.O. Box 440
Helena, MT 59624

Montana Retail Association

or Washington banks, that means that the taxes paid to Montana be in addition to the taxes paid to Washington--and since gton banks pay taxes on 100% of their income to the state of gton, Montana's tax would be a "double tax" for them. This e tax" would have many unintended consequences for Montana nts:

- The imposition of this tax most likely will reduce available in the state. For example...Washington banks doing business in a also would be taxed on income derived from mortgages and cial loans. Fewer Washington banks may offer these loans in a--since they can invest the same funds in forty-six other states do not tax loan proceeds based on their place of origination. uently, it may become harder to obtain home mortgages and ss loans in Montana, as well as many other types of loans.

- The imposition of this tax most likely will increase the cost ilable credit to businesses and consumers in the state. Interest consist of the cost of funds plus a competitive margin for profit. The increased cost of funds due to this tax ultimately will be passed on to borrowers along with the other components of the cost of funds.

- The imposition of this tax most likely will send the wrong signal to businesses looking to invest capital in the state. Montana has an excellent reputation for providing a hospitable investment climate, due in large measure to its state laws. This reputation has successfully attracted capital despite fierce competition from other states. Passage of this tax would substantially change Montana's image as a state that encourages capital investment.

- The imposition of this tax may invite retaliatory legislation from other states that are not imposing a similar tax on Montana financial institutions.

Virtually no additional revenue has been received from this tax by any of the four states that have adopted it. Due to constitutional issues, compliance problems and fleeing out-of-state lenders, few returns may be seen for years, if at all. Clearly, any potential revenue that might be derived from this tax would be outweighed by its adverse impact on Montana's consumers, businesses and banks.

IBA
Illinois Bankers Association
111 North Canal Street - Suite 1111
Chicago, Illinois 60606-7204
(312) 876-9900

217 East Monroe - Suite 110
Springfield, Illinois 62701-1184
(217) 788-9340

News

FOR IMMEDIATE RELEASE

FOR MORE INFORMATION
CONTACT MARTHA ROHLFING
AT 312/876-9900

IBA Releases Results of Survey on Indiana's Out-of-State Bank Tax

Chicago, January 25--Many Illinois bankers have recently expressed concern over Indiana's new tax on out-of-state financial institutions. Several months ago, the Illinois Bankers Association mailed a survey to all Illinois banks in order to obtain accurate information that might be useful for Illinois and Indiana legislators in evaluating the economic impact of this tax. A total of 224 Illinois banks responded to the survey, providing a clear picture of how the tax might affect the ability of Illinois banks to do business in Indiana, as well as how the tax might affect Indiana's consumers, businesses and banks. The results strongly indicate that Indiana's new tax will directly affect the lending practices of Illinois banks to the detriment of Indiana consumers and businesses.

Over one-half of the banks responding to the question (117 respondents) reported they would change their lending practices to Indiana residents or businesses as a result of Indiana's new tax. (An additional 75 survey respondents reported that as of the date of the survey they did not know whether they would change lending practices in Indiana.)

-more-

Three-quarters of the banks located in counties adjacent to Indiana who responded to the question (40 respondents) reported they would change their lending practices to Indiana borrowers as a result of Indiana's new tax.

Of all of the banks responding that they would change their lending practices as a result of Indiana's new tax:

* one-half reported they would stop lending entirely in Indiana;
* three-eighths reported they would only lend to Indiana borrowers when they could pass on the additional cost of the tax to Indiana borrowers; and
* one-eighth reported they would reduce lending to certain types of borrowers.

Banks reporting they would reduce their overall lending to Indiana borrowers indicated that the loans most likely to be affected will be commercial and industrial loans, commercial mortgages, consumer installment loans and residential mortgages.

Banks reporting they would reduce lending to Indiana businesses most frequently identified agricultural and commercial businesses as the industries most likely to be affected.

Banks reporting they would change their lending practices to Indiana borrowers most frequently cited that the changes will be to tighten credit history standards, reduce credit limits and increase minimum loan amounts. Other responses included raising income eligibility limits and shortening loan maturities.

Over 90 percent of the banks responding to the question (134 respondents) reported that they would not invest in Indiana state and local government securities if they are subject to Indiana's new tax. Over 40 percent of these respondents indicated

they would try to sell their current holdings of Indiana securities if they are subject to the tax.

Of the banks responding to the question (101 respondents), 69 percent reported they would incur costs for setting up new accounting systems in order to comply with the reporting requirements of the tax, and 31 percent reported that no additional costs would be incurred. An additional 40 banks responded they were unsure whether additional accounting systems costs would be incurred. Of the banks reporting that additional costs would be incurred, the amounts ranged from under $1,000 to in excess of $100,000. Over 70 percent of the banks located in counties bordering Indiana reported they would incur costs of $1,000 or more to comply with the new tax.

A broad coalition of Illinois interests is working together on this issue, including the Illinois Bankers Association, the Community Bankers Association of Illinois, the Governor's office, the Illinois Department of Revenue, the Illinois Commissioner of Banks and Trust Companies, and members of the Illinois legislature.

The Illinois Bankers Association is a full-service trade organization representing nearly 90 percent of the commercial banks in Illinois.

# # #

TENNESSEE BANKERS ASSOCIATION

CELEBRATING 100 YEARS

THE "OUT OF STATE" BANK TAX WILL AFFECT YOU

In the March 13 issue of the ABA Bankers weekly, the newspaper of the ABA, the back page is devoted to a discussion of the tax on "Out of State" banks. A copy of the article is enclosed for your information. Next week, the Tennessee state Senate will vote on this bill, and it will also be up for consideration in the House Commerce Committee in the near future. Your bank will be affected in two important ways if this tax is adopted.

1) If Tennessee passes such a tax, how long will if be before other states reciprocate and tax Tennessee banks on the business that is done within their borders? We are not talking about large regional banks verses community banks. Tennessee has dozens of community banks located adjacent to our long borders who do sufficient business in the adjoining states to come under the provisions of such an act. When enacted by other states you would be required to keep track of the state in which your income is generated and pay tax to the various states on this basis. The result would be dozens of new tax laws to become familiar with, forms to fill out, and an almost impossible job of allocating your income.

2) It will also result in curtailing the availability of capital to support the Tennessee economy. Tennessee has long been a capital deficient state. If Tennessee taxes all financial institutions which bring capital into Tennessee, the ability of our economy to compete for that capital will be diminished.

Imagine the confusion that such a law would have on the following:

a. home loans sold in the FHA, GNMA, or other secondary markets;
b. home loans made directly with Tennessee consumers by banks in other states which serve adjacent areas of Tennessee;
c. student loans sold through secondary markets;
d. general obligation bonds of this state or any of its political subdivisions;
e. revenue bonds of this state or any of its political subdivisions;
f. participation loans made with out of state syndicates or correspondents to finance industrial or economic development in Tennessee;
g. agriculture real estate loans or production loans made by out of state insurance companies;
h. corporate bonds or commercial paper issued by Tennessee companies;
i. factoring of Tennessee industrial products;

We believe that the concerns are so great that the Senate would do well to return the bill to the Finance Ways and Means Committee for further study. Most observers feel that the state must examine its entire tax structure next year. This tax should be considered in relation to the effect of other forms of taxation that may be adopted.

[illegible] CIRCLE [illegible] TN [illegible] (615) 244-[illegible] FAX # 244-0095

TENNESSEE BANKERS ASSOCIATION

March 15, 1990 90-11

BANK TAX BILL PASSES SENATE FINANCE

A bill which revises the manner in which banks pay excise and franchise tax was approved by the Senate Finance Committee. The bill adopts a new theory of taxation based on the source of the income rather than the location of the bank. SB 2515 by Dunavant (HB 2424 by Kisber and others).

Under current law, banks must have a physical presence in Tennessee or elsewhere before being subject to that state's tax laws. Under the new method, banks could be taxed by every state in which they have customers. The conflicts between differing state laws will likely result in double taxation.

The potential for double taxation could inhibit the flow of capital into the state. The increased cost of doing business in Tennessee could limit the funds available for industrial development, home mortgages, student loans, and other lending activities that are dependent on secondary market or bank participations.

Two states, Minnesota and Indiana, currently have a similar tax. However, if Tennessee were to pass the bill and begin taxing our many neighboring states, it is likely they too would begin taxing Tennessee banks who do business in their states. The impact on Tennessee's community banks located in close proximity to our borders could be disastrous. The administrative problem in tracking income from each loan, credit card, or deposit account would be both expensive and time consuming.

Proponents of the tax cite the need for additional state income. Because the concept is a new one, it has not been judicially tested. Long and costly litigation is expected before any revenue is realized. In addition, it will be costly for the State of Tennessee to attempt to collect an unknown amount of taxes from institutions outside of the state's borders.

The bill will be scheduled for consideration before the full Senate next week. The House companion bill is in the House Commerce Committee, where it will also be considered next week. We urge you to contact your Senators and Representatives in opposition to this bill. While Tennessee needs tax reform, insufficient thought has been given to adopting this new form of taxation on banks. This issue deserves further examination and should be reviewed in context of overall tax reform which is expected to begin next year.

REAL ESTATE APPRAISERS LICENSING

The Senate Commerce Committee approved legislation establishing licensing and certification requirements for real estate appraisers. A state system for licensing and certification of appraisers is required by Federal law and must be in place before July 1, 1991. Without this legislation, financial institutions will be unable to continue mortgage lending

March 22, 1990

TAX BILL - URGENT ACTION NEEDED

The bill which revises the way banks and other financial institutions pay franchise and excise tax will be considered next week on the Senate floor and in the House Commerce Committee. Your urgent action in opposition to SB 2515 by Dunavant, Darnell, Cooper, Patten (HB 2424 by Kisber, B. Turner, Bragg) is needed.

Although not approved by the House Banking Subcommittee, the bill will be considered by the full Commerce Committee. It is listed on the calendar as having no recommendation from the Subcommittee. Many believed that the bill was dead for the year when the Banking Subcommittee failed to report the bill out last week and subcommittee members indicated that another meeting would not be held. However, the administration officials intervened to have the bill placed on the full committee calendar.

An article in the Thursday, March 22, 1990, Tennessean indicates the Governor has asked legislative leaders to pass the bank tax bill as part of a measure to compensate for next year's budget shortfall in excess of $150 million. The administration expects the bank tax to raise an additional $20 million. Representative John Bragg is quoted as saying that the state's financial tax base has been eroded due to interstate banking acquisitions.

In addition to the information contained in last week's update, bankers should be prepared to respond both to the expected $20 million revenue increase and the tax base erosion arguments. Minnesota has imposed a similar tax since 1987. During the three years the tax has been in effect, the state has collected little, if any, additional revenue. The reason for this is that the tax is based on an unproved legal concept. Taxpayers are unwilling to make payments based on the new legal theory until the theory is proven in court. Until Tennessee attempts to enforce the tax and is successful in a prolonged lawsuit, the state is unlikely to see any revenue from the tax.

The $20 million revenue estimate is only a guess. No study or hard figures have been compiled to validate the revenue figure. The Department of Revenue has been asked and cannot even produce a list of current financial institution taxpayers, much less produce a list of additional taxpayers that would fall under the revised tax. When questioned, Revenue Commissioner Joe Huddleston said that out-of-state financial institutions were such good corporate citizens, he expected them to voluntarily pay the additional tax without question.

Interstate banking has not produced an erosion of Tennessee's tax base. The following figures from R.L. Polk directory show both deposits and assets of Tennessee domiciled banks since 1985, the year in which interstate acquisitions were first approved. The chart clearly shows that there has not been a loss of Tennessee assets due to interstate transactions.

Year	Banks	Deposits	Assets
1989	272	$ 36,595,452,879	$ 44,112,300,553
1988	281	34,185,183,519	41,540,320,508
1987	285	32,946,752,758	39,849,595,237
1986	285	30,167,099,869	36,258,030,032
1985	295	27,534,614,776	33,675,199,287

The consolidation of banking operations such as credit card centers is cited as an example of lost assets. However, bankers realize that while holding companies can move servicing centers for credit cards, the actual loans and assets are still booked with the Tennessee institution. Even in the instance where the credit card portfolio is sold to a servicer, no loss of Tennessee assets results. The proceeds of the sale are still assets of the Tennessee domiciled institution and are available for new [illegible] In both cases, they still remain Tennessee based assets and

SENATE TAXATION
EXHIBIT NO. 6
DATE 2/21/91
BILL NO. SB 151

AMENDMENTS TO SENATE BILL NO. 151
second reading copy (yellow)

DEPARTMENT OF REVENUE

This bill provides a tax on employers who employ persons not covered by health insurance. The proceeds of the tax will be used to finance the state's share of the cost of the Montana medicaid program attributable to providing medicaid eligibility to pregnant women and to infants.

Under the original bill the tax rate was determined by the Department of Revenue based on the cost of the Montana medicaid program attributable to providing medicaid eligibility to pregnant women and to infants. These proposed amendments alter the bill by fixing the tax rate regardless of the actual cost of that program.

The program costs will not materially change from those provided in the Second Reading Fiscal Note. The administrative cost component of the fiscal note is driven by the maximum assumption that every employer in the state could be liable for the tax. Until we have experience with the tax we will not know the accuracy of this assumption.

Brief Explanation of Amendments to Senate Bill No. 151

1. Amendments 1 through 4 amend the title and the statement of intent.

2. Amendment 5 clarifies the definition of health insurance coverage.

3. Amendment 6 specifies the amount of the tax: $1.00 per employee per week or fraction thereof.

4. Amendments 7 and 8 specify when the tax is due and when the first payment is due.

5. Amendments 8 and 14 also specify that the tax will not start until December 31, 1991. This delay is necessary to enable the department of revenue to adopt rules, and contact and educate employers.

6. Amendment 9 provides that the department of revenue shall retain 15% of the tax collected to cover the cost of administration. The remaining funds go to SRS.

7. Amendment 10 provides the department of revenue's standard uniform provisions for the assessment and collection of taxes.

SENATE TAXATION
EXHIBIT NO. 6
DATE 2/21/91
BILL NO. SB 151

1. Title, line 18.
Following: "1989;"
Insert: "TO PROVIDE FOR THE COLLECTION AND ADMINISTRATION OF THE TAX;"

2. Title, line 18.
Following: "EFFECTIVE"
Insert: "AND APPLICABILITY"

3. Page 2, line 1.
Following: "rules"
Strike: ":(1) determining the amount of taxes required to be paid by each employer under [section 3]; and (2)"

4. Page 2, lines 6 through 25.
Following: "taxes."
Strike: page 2, lines 6 through 25, in their entirety

5. Page 7, line 5.
Following: "TITLE 33."
Insert: "The health insurance coverage provided must meet or exceed industry standards for provision of health insurance under major medical contracts."

6. Page 7, lines 17 through 23.
Strike: subsection (2) in its entirety
Insert: "(2) The tax is $1.00 per calendar week or fraction of a calendar week of employment of each employee described in subsection (1)."

7. Page 8, line 7.
Following: "payable"
Insert: "on or before the last day of the month"

8. Page 8, line 8.
Following: "ending"
Strike: "September 30, 1991"
Insert: "March 31, 1992"

9. Page 8, line 14.
Following: "taxes."
Insert: "(4) The department of revenue shall retain 15% of the taxes collected pursuant to [this act] for the purpose of administering the collection and enforcement of the tax.
(5) If the total amount of tax due from an employer is less than $10 in each quarterly period of any year, such employer shall not be required to file quarterly returns or make quarterly payments, but in lieu thereof such employer shall, on or before February 28 of the year following that in which the taxes accrued file an annual return and remit the tax

using forms required by the department of revenue."

10. Page 8.
Following: line 14.
Insert: "NEW SECTION. Section 5. Retention of records. Every employer to whom the tax provided in [section 3]applies shall retain, for 5 years after the date the required return is filed, all pertinent and relevant records necessary for the calculation of the tax or bearing upon the matters required in the return, and any other information as the department may require.

NEW SECTION. Section 6. Periods of limitation.
(1) Except as otherwise provided in this section, no deficiency shall be assessed or collected with respect to the taxable period for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing shall be considered as filed on such last day. Where, before the expiration of the period prescribed for assessment of the employer, the employer consents in writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the period agreed upon.
(2) No refund or credit shall be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period the employer files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the employer has agreed in writing under the provisions of subsection (1) of this section to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed in the event no claim is filed shall automatically be so extended.

NEW SECTION. Section 7. Estimated tax on failure to file.
(1) If any employer fails to file the return as required, the department of revenue is authorized to make an estimate of the tax due from such employer from any information in its possession.
(2) For the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the tax of any employer, the department of revenue shall also have power to examine or to cause to have examined by any agent or representative designated by it for that purpose any books, papers, records, or memoranda bearing upon the matters required to be included in the return and may require the attendance of any officer or employee of the employer rendering such report or the attendance of any other person

having knowledge in the premises and may take testimony and require proof material for its information.

NEW SECTION. Section 8. Deficiency assessment -- hearing (1) If the department of revenue determines that the amount of taxes due are greater than the amount disclosed by the return, it shall mail to the employer a notice of the additional taxes proposed to be assessed. Within 30 days after the mailing of the notice, the employer may file with the department of revenue a written protest against the proposed additional taxes, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its tax liability. If no protest is filed, the amount of the additional taxes proposed to be assessed becomes final upon the expiration of the 30-day period. If such protest is filed, the department of revenue shall reconsider the proposed assessment and, if the employer has so requested, shall grant the employer an oral hearing. After consideration of the protest and the evidence presented in the event of an oral hearing, the department's action upon the protest is final when it mails notice of its action to the employer.

(2) When a deficiency is determined and the taxes become final, the department of revenue shall mail notice and demand to the employer for payment, and the taxes shall be due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest from the date specified in [section 4] for payment of the tax. A certificate by the department of revenue of the mailing of the notices specified in this subsection shall be prima facie evidence of the computation and levy of the deficiency in the taxes and of the giving of the notices.

NEW SECTION. Section 9. Credit for overpayment -- interest on overpayment. (1) If the department of revenue determines that the amount of taxes, penalty, or interest due for any taxable period is less than the amount paid, the amount of the overpayment shall be credited against any taxes, penalty, or interest then due from the employer and the balance refunded to the employer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsections (a) and (b), interest shall be allowed on overpayments at the same rate as is charged on delinquent taxes due from the due date of the return or from the date of overpayment (whichever date is later) to the date the department of revenue approves refunding or crediting of the overpayment. Interest shall not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department of revenue for the purpose of verifying the amount of the

overpayment. No interest shall be allowed:
(a) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or
(b) if the amount of interest is less than $1.
(3) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law shall not be considered an overpayment with respect to which interest is allowable.

NEW SECTION. **Section 10.** Application for refund -- appeal from denial. If the department of revenue disallows any claim for refund, it shall notify the employer accordingly. At the expiration of 30 days from the mailing of the notice, the department of revenue's action shall become final unless within the 30-day period the employer appeals in writing from the action of the department of revenue to the state tax appeal board. If such appeal is made, the board shall grant the employer an oral hearing. After consideration of the appeal and evidence presented, the board shall mail notice to the employer of its determination. The board's determination is final when it mails notice of its action to the employer.

NEW SECTION. **Section 11.** Closing agreements (1) The director of revenue or any person authorized in writing by him is authorized to enter into an agreement with any employer relating to the liability of such employer in respect to the taxes imposed by this [act] for any period.
(2) Any such agreement is final and conclusive, and except upon a showing of fraud or malfeasance or misrepresentation of a material fact:
(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and
(b) in any suit, action, or proceeding under such agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, the agreement may not be annulled, modified, set aside, or disregarded.

NEW SECTION. **Section 12.** Confidentiality of tax records. (1) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for the department or any deputy, assistant, agent, clerk, or other officer or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this [act] or any other information secured in the administration of this [act]. It is also unlawful to divulge any return or report required by rule of the department or under this [act].
(2) The officers charged with the custody of such reports and returns shall not be required to produce any of them or

evidence of anything contained in them in any action or proceeding in any court, except in any action or proceeding to which the department is a party under the provisions of this [act] or any other taxing act or on behalf of any party to any action or proceedings under the provisions of this [act] when the reports or facts shown thereby are directly involved in such action or proceedings, in either of which events the court may require the production of and may admit in evidence so much of said reports or of the facts shown thereby as are pertinent to the action or proceedings and no more.

(3) Nothing herein shall be construed to prohibit:

(a) the delivery to a employer or his duly authorized representative of a certified copy of any return or report filed in connection with his tax;

(b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any employer who shall bring action to set aside or review the tax based thereon.

(4) Reports and returns shall be preserved for 5 years and thereafter until the department orders them to be destroyed.

NEW SECTION. **Section 13.** Coordination instruction

If [LC 981] is passed and approved and if it includes a section adopting a uniform tax appeal procedure then the language contained in [sections 7 and 8] is void and the provisions of [LC 981] shall govern the appeal procedures."

Renumber: subsequent sections

11. Page 9, line 1.
Following: "(2)"
Strike: "All"
Insert: "Except as provided in [section 4(4)] the"

12. Page 9, line 8.
Following: "infants"
Strike: "if their family income does not exceed 185% of the federal poverty threshold"

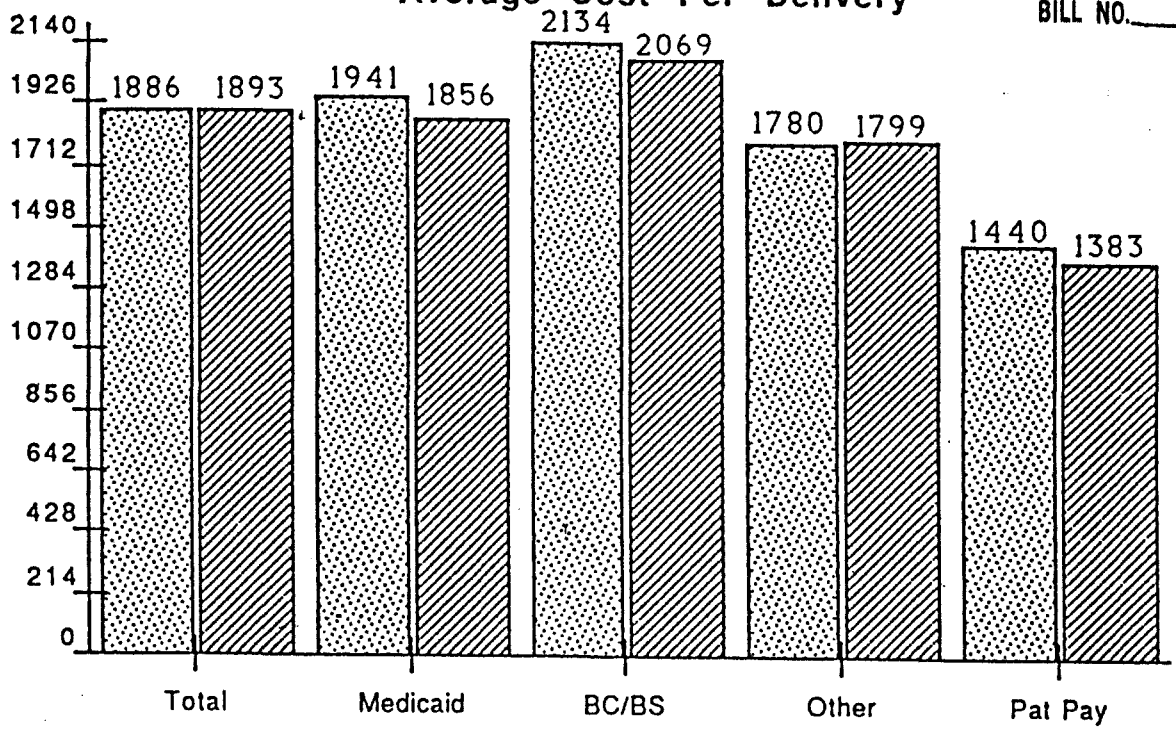
13. Page 9, line 20.
Following: "date"
Insert: "-- applicability"

14. Page 9, line 21.
Following: "1991"
Insert: "the taxes provided in [section 3] apply employers after December 31, 1991"

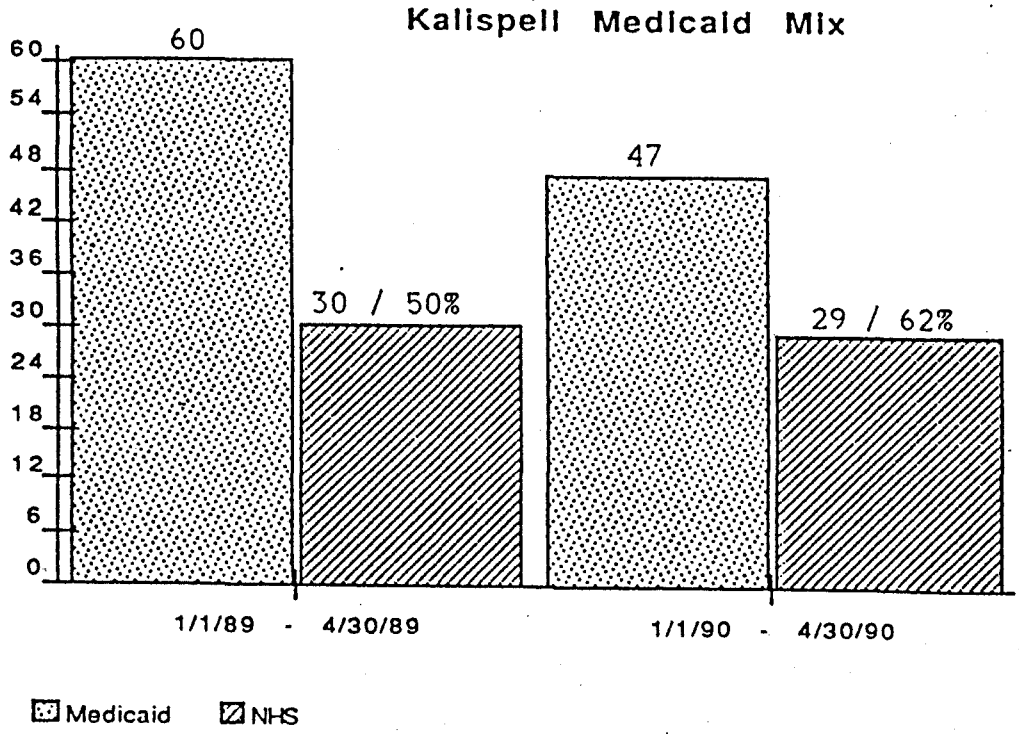
Obstetrics Kalispell Regional Hospital

SENATE TAXATION
EXHIBIT NO. 7
DATE 2/21/91
BILL NO. SB 151

Average Cost Per Delivery



Kalispell Medicaid Mix



Prepared By Van Kirke Nelson, M.D., Kalispell, Montana

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0151, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide medicaid eligibility to pregnant women and to infants if family income does not exceed 185% of the federal poverty threshold; to require employers to pay a tax for each employee who does not have health insurance coverage for a pregnant woman or an infant who is a member of the employee's immediate family; to allocate proceeds of the tax to finance the increased costs of the Montana medicaid program attributable to providing medicaid eligibility to pregnant women and to infants if family income does not exceed 185% of the federal poverty threshold; amending sections and providing an effective date.

ASSUMPTIONS:

Department of Revenue:

1. The current population of the state is 805,000 persons. There are approximately 161,000 uninsured Montanans and 343,900 private jobs in the state. There are an estimated 68,000 persons in jobs without employer-sponsored health insurance coverage. The average number of hours worked per year per employee is 1,690.
2. The amount of state funds required to match federal funds to provide the medicaid services authorized in SB0151 is $727,166 and $1,134,251 in FY92 and FY93, respectively.
3. The department would require 11.30 permanent FTE.

Department of Social & Rehabilitation Services:

3. Total births in the state are 10,800 in FY92 and 10,600 in FY93.
4. Under current law, medicaid would pay for 27% (2,916) births in FY92 and 29% (3,074) births in FY93.
5. This act would increase the percent of births paid by medicaid to 32% (3,456) in FY92 and to 37% (3,922) in FY93 based upon experience in other states. Additional births covered would be 540 in FY92 and 848 in FY93.
6. Cost of delivery is estimated at $2,192 ($1437 in hospital cost and $755 in physician charges). Cost of newborn care is estimated at $1,406 which includes hospital charges for newborn during the first few days after delivery. These costs are at the current FY91 reimbursement rates, and would increase when medicaid provider rate increases are enacted for hospitals or physicians.
7. The state share of medicaid payments is estimated at 28.29% in FY92 and 28.10% in FY93.
8. Current law estimate of medicaid primary care is $145,574,213 in FY92 and $152,852,924.
9. Pregnant women who become eligible for medicaid under the act will remain eligible for medicaid services for 60 days after giving birth. Medical cost will be approximately $60 per birth.
10. The average yearly medical cost for a child under 6 years of age is $1,102 per year. A newborn infant will be covered until age 1 under the act.

FISCAL IMPACT:

see next page

2-21-91

ROD SUNDSTED, BUDGET DIRECTOR — DATE
Office of Budget and Program Planning

DOROTHY ECK, PRIMARY SPONSOR — DATE

Fiscal Note for SB0151, second reading

EXHIBIT NO. 5
DATE 2/21/91
BILL NO. SB 151

FISCAL IMPACT:

Department of Social and Rehabilitation Services:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
Benefits and Claims	0	2,570,400	2,570,400	0	4,036,480	4,036,480
Total	0	2,570,400	2,570,400	0	4,036,480	4,036,480
Funding:						
Medicaid Tax Account (02)	0	727,166	727,166	0	1,134,251	1,134,251
Federal Special	0	1,843,234	1,843,234	0	2,902,229	2,902,229
Total	0	2,570,400	2,570,400	0	4,036,480	4,036,480

Department of Revenue:

Expenditures:						
FTE	0.00	11.30	11.30	0.00	11.30	11.30
Personal Services	0	155,415	155,415	0	218,512	218,512
Operating Expenses	0	172,228	172,228	0	192,950	192,950
Equipment	0	37,655	37,655	0	4,430	4,430
Total	0	365,298	365,298	0	415,892	415,892
Funding:						
General Fund	0	365,298	365,298	0	415,892	415,892
Revenues:						
Employer Medicaid Tax (02)	0	727,166	727,166	0	1,134,251	1,134,251
General Fund Impact:			(365,298)			(415,892)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

It is estimated that medicaid would pay for 40% of all births in FY94 and beyond.

TECHNICAL NOTES:

The proposed legislation calls for an effective date of July 1, 1991; there is no applicability date. It is not possible for the proposed tax system to be implemented by the beginning of FY92.

EXHIBIT 8
DATE 2/21/91
BILL NO SB 151

SENATE TAXATION
EXHIBIT 9
DATE 1/31/91
BILL NO SB 151

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of February, 1991.

Name: VAN KIRKE NELSON, M.D.

Address: 210 SUNNYVIEW LANE
KALISPELL, MONTANA 59901

Telephone Number: (406) 752-5260

Representing whom? MONTANA SECTION
~~SB 154~~ AMERICAN COLLEGE OBSTETRICIANS & GYNECOLOGISTS

Appearing on which proposal?
SB 151

Do you: Support? ✓ Amend?_____ Oppose?_____

Comments:

An excellent proposal that clearly accesses care to a group that falls "through the cracks" for care. It will provide coverage thru a fair taxation process to employees of the McDonald and Wendys and like businesses that are paid minimum wage and yet make "too much" to be eligible for present medicaid ~~benefits~~ benefit.

Access to care decreases incidence of low birth weight infants & resultant high costs to premature infants. In excess of ½ medicaid payments was spent for ≤2 lbs birthweight infants. This will be reduced & increased access —

Van Kirke Nelson

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 10
DATE 1/21/91

Women's Opportunity and Resource Development, Inc.

ORD Center
127 N. Higgins
Floor
Missoula, MT 59802
543-3550

Equity Project
research & educational materials

Futures
Career readiness & support services for Teen Moms

Media
Publications
Community outreach
"In Other Words ..." radio show

Options Unlimited
Mpls JOBS Program
case management
training
support groups

WDGo
Women's Economic Development Group
skill training
workshops
individual consulting
newsletter
referral

2/20/91

Dear Senate Taxation Committee,

I am writing in support of Senator Dorothy Eck's bill to extend Medicaid coverage to pregnant women and infants in families that earn up to 185% of the Federal poverty level. This would provide health care coverage to the so-called "working poor": families who earn too much to be on welfare but not enough to afford health insurance or non-emergency health care. Many of these women do not receive adequate prenatal care during their pregnancies and the result is a low-birth weight, high-risk infant with long term costly health care needs these families can not afford to pay for.

Extending Medicaid coverage during pregnancy to prevent high risk infants is more cost effective than paying for the long term health care needs of these infants. Encouraging employers to provide this coverage for pregnant women and infants, as they provide unemployment insurance coverage, is an important way to ensure that low income working Montanans have access to adequate prenatal care.

From my work with people on welfare, I am very aware of the problems for low income people caused by the high cost of health insurance and health care. Health care costs are a primary cause of the welfare cycle, where single parents cycle between welfare and low wage employment. Many of the program participants report that they are on welfare due to emergency health care costs they could not afford to pay while they were working.

Based on my experience working with Montanans trying to achieve economic self sufficiency, I believe we need a new approach to providing health care in this country. Too many of us can not afford basic, minimal care which in the long run would be much cheaper than the emergency, high risk problems that result from the lack of this care. This proposal to extend Medicaid coverage to pregnant women and infants in families with income up to 185% of poverty is a step in the right direction.

Sincerely,

Judy Smith

SENATE TAXATION
EXHIBIT NO. 11
DATE 2/21/91
BILL NO. SB 151

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of February, 1991.

Name: Paulette Kohman

Address: 2030 11th Ave Suite 10
Helena 59601

Telephone Number: 443-1674

Representing whom?
MT Council for Mat + Child Health

Appearing on which proposal?
SB 151

Do you: Support? X Amend?____ Oppose?____

Comments:

Human Services proponents are frequently "reminded" of the shortage of funds ~~in the~~ from existing revenues. This Bill takes the necessary responsible step of raising revenue to support increased expenditures:

1) Medicaid is matched almost 3:1 by federal funds. This is new revenue to MT, and goes to develop the necessary infastructure of health services - to

2) Without health care sources MTs economy cannot support new business development, and small towns losing hospitals + health care will die.

3) The tax is a reasonable, tightly focused, and inexpensive way to provide necessary care for Montana's "working poor"

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of Feb, 1991.

Name: Diana Smith

Address: MT Womens Lobby
P. O. Box 1099, Helena 59503

Telephone Number: 449-2917

Representing whom?

MT Womens Lobby

Appearing on which proposal?

SB 151

Do you: Support? X Amend?____ Oppose?____

Comments:

SB 151 provides a reasonable cost effective method to expunge the arrest & pretrial records for those who were not convicted.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STANDING COMMITTEE REPORT

February 21, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 115 (Second reading copy - yellow), respectfully report that Senate Bill No. 115 be amended and as so amended do pass:

1. Page 3, line 12.
Strike: "any other type of tax not prohibited by law"
Insert: "taxes on property"

2. Page 7, line 10.
Strike: "IF"
Insert: "unless,"
Following: "AGREEMENT"
Insert: ","

Signed: _____
Mike Halligan, Chairman

2-21-91
Amd. Coord.

2-21-91 11:20
Sec. of Senate