

SENATE BILL NO. 263

Introduced: 01/24/83

Referred to Committee on Taxation: 01/24/83

Hearing: 2/14/83

Died in Committee.

1 *Amended* BILL NO. *263*
2 INTRODUCED BY *Turnage*
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE UPON BANKS
6 AND SAVINGS AND LOAN ASSOCIATIONS A FINANCIAL INSTITUTIONS
7 FRANCHISE TAX IN LIEU OF THE MONTANA CORPORATION LICENSE
8 TAX; TO PROVIDE THAT THE TAX IS MEASURED UPON THE TOTAL
9 DEPOSITS OF THE BANK OR SAVINGS AND LOAN ASSOCIATION; TO
10 PROVIDE EXCLUSIONS FOR CERTAIN GOVERNMENT DEPOSITS; AMENDING
11 SECTIONS 15-31-101, 15-31-701, AND 15-31-702, MCA; AND
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
13 DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Short title. This part may
17 be cited as the "Financial Institutions Franchise Tax Act of
18 1983".

19 NEW SECTION. Section 2. Purpose. It is the intent of
20 the legislature that every bank and savings and loan
21 association doing business in the state as a corporation
22 within the provisions of 15-31-101 shall annually pay to the
23 state treasurer a financial institutions franchise tax for
24 such privilege and for the privilege of receiving and
25 processing deposits.

1 NEW SECTION. Section 3. Definitions. As used in this
2 part, the following definitions apply:

3 (1) (a) Except as provided in subsection (b), "total
4 deposits" means the average total deposits for a taxable
5 period of a bank or savings and loan association as reported
6 to state or federal regulators on the consolidated report of
7 condition in which are exhibited in detail and under
8 appropriate schedules the resources and liabilities of a
9 bank or savings and loan association on those past days
10 designated by the comptroller of currency of the United
11 States for reports of national banking associations or for
12 banks required to report to the department of commerce on
13 those past days specified in 32-1-231.

14 (b) Total deposits include all demand deposits and
15 time deposits, including but not limited to those deposits
16 that are insured by the federal savings and loan insurance
17 corporation and federal deposit insurance corporation,
18 except deposits of the United States government or its
19 agencies or of the state of Montana or its agencies or
20 political subdivisions.

21 (2) "Taxable period" means the taxable year for
22 federal income tax purposes of the bank or savings and loan
23 association.

24 NEW SECTION. Section 4. Tax imposed -- rate --
25 exceptions. (1) There is imposed upon every bank and savings

INTRODUCED BILL

1 and loan association for each taxable period a financial
2 institutions franchise tax at the rate of 0.25% of total
3 deposits.

4 (2) When a bank or savings and loan association
5 changes its taxable period, it must promptly notify the
6 department of revenue.

7 (3) To the extent that a bank or savings and loan
8 association is a branch of a foreign bank or savings and
9 loan association, this section applies only to the total
10 deposits received by the Montana branch or operation.

11 NEW SECTION. Section 5. Incorporation by reference.
12 The provisions of the following sections of this chapter are
13 incorporated into this part by reference and apply to this
14 part: 15-31-101, 15-31-102, 15-31-111, 15-31-123, 15-31-142,
15 15-31-143, 15-31-501 through 15-31-509, 15-31-521 through
16 15-31-526, 15-31-531, 15-31-532, 15-31-541 through
17 15-31-544, and 15-31-551 through 15-31-554, except that
18 wherever the words "tax", "license tax", "license fee",
19 "corporation excise tax", or like words appear referring to
20 the tax imposed under part 1 of this chapter, they mean, for
21 purposes of this part, "financial institutions franchise
22 tax" and except that wherever the words "net income",
23 "taxable income", "taxable net income", or like words appear
24 referring to the basis against which the measure of the
25 license tax computation is made, they mean, for purposes of

1 this part, "total deposits".

2 NEW SECTION. Section 6. Disposition of revenue. The
3 revenue collected from the tax imposed by this part must be
4 disbursed in accordance with 15-31-701 and 15-31-702.

5 Section 7. Section 15-31-101, MCA, is amended to read:

6 "15-31-101. Organizations subject to tax. (1) The term
7 "corporation" includes associations, joint-stock companies,
8 common-law trusts and business trusts which do business in
9 an organized capacity, and all other corporations whether
10 created, organized, or existing under and pursuant to the
11 laws, agreements, or declarations of trust of any state,
12 country, or the United States.

13 (2) The terms "engaged in business" and "doing
14 business" both mean actively engaging in any transaction for
15 the purpose of financial or pecuniary gain or profit.

16 (3) Every corporation, except as hereinafter provided
17 and except as provided in 33-2-705(6), engaged in business
18 in the state of Montana shall annually pay to the state
19 treasurer as a license fee for the privilege of carrying on
20 business in this state such percentage or percentages of its
21 total net income for the preceding taxable year at the rate
22 hereinafter set forth. In the case of corporations having
23 income from business activity which is taxable both within
24 and without this state, the license fee shall be measured by
25 the net income derived from or attributable to Montana

sources as determined under part 3. This tax is due and payable on the 15th day of the 5th month following the close of the taxable year of the corporation; however, the tax becomes a lien as provided in this chapter on the last day of the taxable year in which the income was earned and is for the privilege of carrying on business in this state for the taxable year in which the income was earned.

(4) Every bank organized under the laws of the state of Montana, of any other state, or of the United States and every savings and loan association organized under the laws of this state or of the United States is subject to the Montana ~~corporation--license~~ financial institutions franchise tax provided for under this chapter. For taxable years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548)."

Section 8. Section 15-31-701, MCA, is amended to read:

"15-31-701. Department of revenue -- special duties for transmitting ~~corporation--license~~ financial institutions franchise tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving ~~corporation--license~~ financial institutions franchise tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer of the county in which the business

is located the revenues calculated under 15-31-702(1)(b).

(2) If the department of revenue determines, under the provisions of 15-31-503 and 15-31-531, that a bank or savings and loan association owes more taxes than shown on the original return or has paid more than the tax, penalty, or interest due in any year, it shall notify the bank or savings and loan association. Additional payment is due within 10 days after receipt of the final determination of taxes due. County treasurers shall issue warrants for their portion of the overpayment received and interest, as provided in 15-31-531.

(3) The department shall continue to exercise all its duties and powers outlined in this title with respect to auditing returns and enforcing payment of the ~~corporation~~ license financial institutions franchise taxes owed by banks and savings and loan associations. Any delinquent taxes collected from the sale of property of a bank or savings and loan association under the provisions of 15-31-525 shall be transmitted to the county in which the corporation owing the delinquent taxes is located. The only duties of the county treasurers in this regard are issuing refunds and distributing the taxes to local taxing jurisdictions."

Section 9. Section 15-31-702, MCA, is amended to read:

"15-31-702. Distribution of ~~corporation--license~~ financial institutions franchise taxes collected from banks

1 or savings and loan associations. (1) All ~~corporation~~
 2 ~~license financial institutions franchise~~ taxes collected
 3 from banks and savings and loan associations shall be
 4 distributed in the following manner:

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

7 (b) 80% must be allocated to the various taxing
 8 jurisdictions within the county in which the bank or savings
 9 and loan association is located.

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

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

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

1 NEW SECTION. Section 10. Codification instruction.
 2 Sections 1 through 6 are intended to be codified as an
 3 integral part of Title 15, chapter 31, part 7, and the
 4 provisions of Title 15, chapter 31, part 7, apply to
 5 sections 1 through 6.

6 NEW SECTION. Section 11. Effective date --
 7 applicability. This act is effective on passage and approval
 8 and applies to taxable years beginning after December 31,
 9 1982.

-End-

STATE OF MONTANA

REQUEST NO. 227-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 263 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

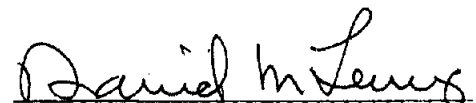
Senate Bill 263 imposes upon banks and savings and loan associations a financial institutions' franchise tax in lieu of the Montana corporation license tax; provides that the tax is measured upon the total deposits of the bank or savings and loan association; provides exclusions for certain government deposits; and provides an immediate effective date and an applicability date.

ASSUMPTIONS:

- 1) Corporation license tax revenues for FY84 and FY85 are based on projections from Office of Budget and Program Planning.
- 2) Average total deposits were calculated from monthly (savings and loans), quarterly (state banks), and semiannual (national banks) data for calendar year 1981.
- 3) Total deposits of financial institutions are assumed to grow at 5 percent per annum.
- 4) Expenditures for administering the proposed financial institutions franchise tax include \$500 annually for forms and instructions, \$1,500 annually for data processing production, and \$3,000 for data processing system development in FY84.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
Corporation License/Income Tax Collections		
Under Current Law	\$41.904M	\$48.817M
Under Proposed Law	38.028M	44.941M
Estimated Decrease	<u>(3.876M)</u>	<u>(3.876M)</u>
Financial Institutions Franchise Tax Collections		
Under Current Law	-0-	-0-
Under Proposed Law	14.767M	15.505M
Estimated Increase	<u>14.767M</u>	<u>15.505M</u>

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-83

	<u>FY84</u>	<u>FY85</u>
TOTAL REVENUE		
Under Current Law	41.904M	48.817M
Under Proposed Law	<u>52.795M</u>	<u>60.446M</u>
Estimated Increase	<u>10.891M</u>	<u>11.629M</u>
Operating Expenses for Administering Financial Institutions Franchise Tax		
Under Current Law	-0-	-0-
Under Proposed Law	<u>.005M</u>	<u>.002M</u>
Estimated Increase	<u>.005M</u>	<u>.002M</u>
General Fund		
Under Current Law	24.834M	29.259M
Under Proposed Law	<u>26.223M</u>	<u>30.745M</u>
Estimated Increase	<u>1.389M</u>	<u>1.486M</u>
School Foundation Program		
Under Current Law	9.701M	11.429M
Under Proposed Law	<u>10.247M</u>	<u>12.011M</u>
Estimated Increase	<u>.546M</u>	<u>.582M</u>
Sinking Fund		
Under Current Law	4.268M	5.028M
Under Proposed Law	<u>4.507M</u>	<u>5.283M</u>
Estimated Increase	<u>.239M</u>	<u>.255M</u>
Distribution to Local Governments		
Under Current Law	3.101M	3.101M
Under Proposed Law	<u>11.812M</u>	<u>12.404M</u>
Estimated Increase	<u>8.711M</u>	<u>9.303M</u>

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Given the 80 percent allocation of the franchise tax to local governments, revenues will increase by \$8.7 million in FY84 and \$9.3 million in FY85.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The franchise tax will generate a reliable revenue source for local tax jurisdictions and will eliminate the problems of local and state refunds to financial institutions based on adjustments made on tax returns. No quantitative estimates were derived.