

**SENATE BILL REPORT**

**SB 5712**

**AS REPORTED BY COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE,  
MARCH 5, 1991**

**Brief Description:** Concerning the taxation of stock brokers, broker-dealers, and security houses.

**SPONSORS:** Senators Moore, von Reichbauer, McCaslin and West.

**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE**

**Majority Report:** That Substitute Senate Bill No. 5712 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators von Reichbauer, Chairman; Johnson, Vice Chairman; McCaslin, Moore, Owen, Rasmussen, Sellar, Vognild, and West.

**Staff:** Meg Jones (786-7416)

**Hearing Dates:** February 28, 1991; March 5, 1991

**BACKGROUND:**

Business persons are assessed business and occupation tax at varying rates established by state law. The tax is assessed on business transactions for which a separate fee is received. Certain businesses involve only one transaction and share the fee among several business persons. Transactions for which commissions are received is one example of this. When the B&O tax is applied in this situation, then the tax pyramids and the initial business person receiving the gross commission which must be shared is taxed, the person receiving their share of the commission is taxed and the same funds are thereby taxed twice.

The measure of tax on certain occupations involving commission payments has been changed by state law to eliminate this pyramid taxation. This has been declared constitutional in the case of real estate brokers. The securities industry is also a commission industry potentially subject to the pyramid effect of the B&O tax's typical application.

The current B&O tax rate is 1.5 percent.

**SUMMARY:**

The amount of B&O tax on stock brokers, broker-dealers or security houses shall be 1 percent. The tax shall be measured on the gross commission retained after any other broker, broker-dealer or house has been paid their portion of the gross commission due by contract or other agreement.

**EFFECT OF PROPOSED SUBSTITUTE;**

The tax rate for B&O taxes on security houses, stock brokers and dealers and broker-dealers and investment houses is 1.5 percent. The tax shall be assessed on the gross commission retained after any other broker, broker-dealer or investment house has been paid their portion of the gross commission due by contract or by other agreement.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested

**TESTIMONY FOR:**

The bill eliminates commissions being taxed twice without any intervening sale or service. Currently the transfer of commission is taxed, and this is unfair to the distributing broker, for their profit margin is depleted through taxes levied on income they do not retain.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Walt Corneille, IAEP, IDS (pro); Bill Good, Goodlin Financial, Inc. (pro); Loretta Elderkin, Pacific West Securities (pro); David Carlon, Laney & Co. (pro); Bruce Ellis, Evergreen Financial (pro); Mark Greenberg, Securities Industry Association (pro)