Grading the Legislature

House Bill 2517 – Regulation of the Banking Industry
Grade: F

HB 2517 gives the Board of Banking and Financial Institutions (BBFI) the authority to approve or deny potential acquisitions of or by West Virginia banks. The bill, passed through the House on January 29, now moves to the Senate.

The bill is, sadly, just another example of the Legislature moving towards more government involvement in the economy. If HB 2517 passes through the Senate, a seven-person regulatory board will have a commanding grip on an entire industry within the state.

This newfound power presents a couple of problems. The spirit of the bill, as is the case with most regulation, is that the BBFI can provide a protective shield for West Virginia banks. However, good intentions do not translate into good deeds. The bill assumes that the BBFI has the necessary knowledge and foresight to approve only good acquisitions and negate only bad ones. This knowledge is simply not available; who is to say whether a banking merger is good in the short run but detrimental after forty years? Perhaps the opposite is true. How do we even measure "good" and "detrimental?" And a true evaluation of a potential merger or acquisition will necessarily need analysis well into the future; does anyone have a concrete vision of what the banking industry will look like decades from now? What would bankers in the 1950s have said about credit cards and online banking?

Perhaps more dangerous to West Virginia are the political manipulations of the market system that can result by giving the BBFI the power to negate potential acquisitions. It is important to realize that in capitalism—the economic system that has provided for the immense wealth generated by the United States—only those firms that provide a valuable service to society will be rewarded with customers and profits. As the world is constantly evolving, firms that once provided a valuable service to society may not continually do so.

Consider now a merger between Bank A and Bank B that would create a more efficient, more profitable Bank AB, and render Bank C obsolete. Faced with ceasing operations, empowering the BBFI with the ability to prevent the merger now allows Bank C a lobbying option by which to stay in business—a possibility which, given the wealth created from the merger in the above example, makes society worse off and prevents economic growth.

West Virginia does not need more regulation. Too much regulation is one of the reasons that the West Virginia economy ranks at or near the bottom of any conceivable metric of the United States. This bill does nothing to improve upon the well-being of our state.

Senate Bill 465 – Elimination of the Business Franchise Tax
Grade: A-

If, in twenty years, West Virginia finds itself as a growing economy with a business-friendly environment, January 28, 2008 may be the day that the Mountain State turned the corner—the day that Senate Bill 465 was introduced, calling for an elimination of the business franchise tax.

The importance of this legislation can not be overstated, and its strength comes not just in the balance sheet impact for West Virginia businesses. By passing SB 465, the Legislature would send the signal that our existing business climate—the worst in the nation—needs to be addressed. West Virginia has a reputation amongst national businesses that it is a horrid place to operate—a number of national firms are known to categorically rebuke any ideas of expansion into West Virginia. Eliminating the business franchise tax expresses the interest of the Legislature in attracting business to the state rather than driving them from it, as has long been the case. While by no means a one-shot solution, SB 465 is a remarkable step towards a better economic future.

When originally implemented in 1987, the business franchise tax stated that businesses shall pay fifty dollars or fifty-five one hundredths of a percent of the tax base, whichever was greater. The amount was raised to seventy-five one hundredths in 1989, though has been steadily declining ever since then, and was to maintain at a steady level of twenty-seven one hundredths for the indefinite future beginning in 2013. SB 465 simply eliminates the tax in 2013.

While eliminating the business franchise tax immediately would be most beneficial, legislators note that the removal of the tax would effectively tie their fiscal hands. This is absolutely true, and should be a goal of legislation—to force legislators to make difficult decisions in limiting the scope of the public sector. One of the great growth stories of recent economic history, Ireland, happened as a direct result of a national fiscal crisis. When government is forced to be restrained, by legislation or by crisis, the long-run result is a more robust market economy that has the ability to generate the prosperity we all hope to benefit from.

Matt E. Ryan is the Charles G. Koch Doctoral Fellow, and is an editor of *Unleashing Capitalism: Why Prosperity Stops at the West Virginia Border and How to Fix It*. He can be reached at: matt.ryan@mail.wvu.edu.