

SENATE BILL NO. 147

INTRODUCED BY GAGE
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

JANUARY 18, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON TAXATION.

JANUARY 19, 1991 FIRST READING.

JANUARY 29, 1991 COMMITTEE RECOMMEND BILL
 DO PASS. REPORT ADOPTED.

JANUARY 30, 1991 PRINTING REPORT.

 SECOND READING, DO PASS.

JANUARY 31, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 49; NOES, 0.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 31, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON TAXATION.

FEBRUARY 1, 1991 FIRST READING.

MARCH 5, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN. REPORT ADOPTED.

 POSTED ON CONSENT CALENDAR.

MARCH 7, 1991 CONSENT CALENDAR, QUESTIONS AND ANSWERS.

MARCH 8, 1991 THIRD READING, CONCURRED IN.
 AYES, 95; NOES, 2.

 RETURNED TO SENATE.

IN THE SENATE

MARCH 9, 1991 RECEIVED FROM HOUSE.

 SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *147*
 2 INTRODUCED BY *[Signature]*
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PROCEDURE
 6 FOR THE FILING OF A SHORT-PERIOD MONTANA CORPORATION LICENSE
 7 TAX RETURN BY CORPORATIONS PERMITTED TO FILE A MONTANA
 8 CONSOLIDATED CORPORATION LICENSE TAX RETURN; AMENDING
 9 SECTION 15-31-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 10 DATE AND A RETROACTIVE APPLICABILITY DATE."
 11

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

13 **Section 1.** Section 15-31-141, MCA, is amended to read:

14 "15-31-141. Consolidated returns -- computation and
 15 procedure -- prohibition on financial institutions. (1)
 16 Corporations which are affiliated may not file a
 17 consolidated return unless at least 80% of all classes of
 18 stock of each corporation involved is owned directly or
 19 indirectly by one or more members of the affiliated group.

20 (2) Corporations may not file a consolidated return
 21 unless the operation of the affiliated group constitutes a
 22 unitary business and, except for a unitary business
 23 operation described in subsection (2)(b), permission to file
 24 a consolidated return is given by the department of revenue.
 25 For purposes of this section, a "unitary business operation"

1 means one in which:

2 (a) the business operations conducted by the
 3 corporations in the affiliated group are interrelated or
 4 interdependent to the extent that the net income of one
 5 corporation cannot reasonably be determined without
 6 reference to the operations conducted by the other
 7 corporations; or

8 (b) all of the corporations in the affiliated group are
 9 incorporated and operate exclusively in Montana, are not
 10 multistate corporations, and have filed a consolidated
 11 federal return for the tax year.

12 (3) The election to file a consolidated return is
 13 binding as long as the affiliated group continues to file a
 14 federal consolidated return.

15 (4) If the conditions of subsections (1) and (2) of
 16 this section are met, the department may require
 17 corporations to file a consolidated return when the
 18 department considers a consolidated return necessary.

19 (5) Any corporation liable to report under this chapter
 20 and owning or controlling, either directly or indirectly, at
 21 least 80% of all classes of stock of each corporation
 22 involved may be required to make a consolidated report
 23 showing the combined net income, such assets of the
 24 corporation as are required for the purposes of this
 25 chapter, and such other information as the department may

1 require, but excluding intercorporate stockholdings and
 2 intercorporate accounts. Any corporation liable to report
 3 under this chapter and owned or controlled, either directly
 4 or indirectly, by another corporation may be required to
 5 make a report consolidated with the owning company, showing
 6 the combined net income, such assets of the corporation as
 7 are required for the purposes of this chapter, and such
 8 other information as the department may require, but
 9 excluding intercorporate stockholdings and intercorporate
 10 accounts. In case it shall appear to the department that any
 11 arrangement exists in such a manner as to improperly reflect
 12 the business done, the segregable assets, or the entire net
 13 income earned from business done in this state, the
 14 department is authorized and empowered to equitably adjust
 15 the tax in such manner as it may determine.

16 (6) (a) A majority of the corporation license tax
 17 collected from financial institutions is paid to local
 18 government areas in which each financial institution is
 19 located. However, consolidated returns for financial
 20 institutions do not reflect the true tax attributable to
 21 each local government. In addition, consolidated returns
 22 would permit financial institutions to offset income against
 23 losses of nonfinancial institutions, thereby distorting the
 24 true income of each financial organization.

25 (b) In accordance with subsection (6)(a), financial

1 institutions are prohibited from filing consolidated returns
 2 under this section.

3 (7) (a) When an affiliated group elects to file a
 4 consolidated return under the provisions of this section, a
 5 corporation of the affiliated group shall file a separate
 6 return for any portion of its taxable year in which its
 7 income is not included in the consolidated return of the
 8 group. The separate return must be filed no later than the
 9 15th day of the 5th month following the close of the taxable
 10 year for which a consolidated return of the affiliated group
 11 is filed.

12 (b) A 1-month to 6-month extension of time is
 13 automatically allowed for filing a return, provided that on
 14 or before the due date of the return, an application for an
 15 extension is made by the corporation. The application must
 16 be made on forms prescribed by the department."

17 NEW SECTION. Section 2. Retroactive applicability.
 18 [This act] applies retroactively, within the meaning of
 19 1-2-109, to taxable years beginning after December 31, 1990.

20 NEW SECTION. Section 3. Effective date. [This act] is
 21 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON TAXATION

1 *Senate* BILL NO. 147
2 INTRODUCED BY *Drye*
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PROCEDURE
6 FOR THE FILING OF A SHORT-PERIOD MONTANA CORPORATION LICENSE
7 TAX RETURN BY CORPORATIONS PERMITTED TO FILE A MONTANA
8 CONSOLIDATED CORPORATION LICENSE TAX RETURN; AMENDING
9 SECTION 15-31-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
10 DATE AND A RETROACTIVE APPLICABILITY DATE."
11

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

13 **Section 1.** Section 15-31-141, MCA, is amended to read:

14 "15-31-141. Consolidated returns -- computation and
15 procedure -- prohibition on financial institutions. (1)
16 Corporations which are affiliated may not file a
17 consolidated return unless at least 80% of all classes of
18 stock of each corporation involved is owned directly or
19 indirectly by one or more members of the affiliated group.

20 (2) Corporations may not file a consolidated return
21 unless the operation of the affiliated group constitutes a
22 unitary business and, except for a unitary business
23 operation described in subsection (2)(b), permission to file
24 a consolidated return is given by the department of revenue.
25 For purposes of this section, a "unitary business operation"

1 means one in which:

2 (a) the business operations conducted by the
3 corporations in the affiliated group are interrelated or
4 interdependent to the extent that the net income of one
5 corporation cannot reasonably be determined without
6 reference to the operations conducted by the other
7 corporations; or

8 (b) all of the corporations in the affiliated group are
9 incorporated and operate exclusively in Montana, are not
10 multistate corporations, and have filed a consolidated
11 federal return for the tax year.

12 (3) The election to file a consolidated return is
13 binding as long as the affiliated group continues to file a
14 federal consolidated return.

15 (4) If the conditions of subsections (1) and (2) of
16 this section are met, the department may require
17 corporations to file a consolidated return when the
18 department considers a consolidated return necessary.

19 (5) Any corporation liable to report under this chapter
20 and owning or controlling, either directly or indirectly, at
21 least 80% of all classes of stock of each corporation
22 involved may be required to make a consolidated report
23 showing the combined net income, such assets of the
24 corporation as are required for the purposes of this
25 chapter, and such other information as the department may

1 require, but excluding intercorporate stockholdings and
 2 intercorporate accounts. Any corporation liable to report
 3 under this chapter and owned or controlled, either directly
 4 or indirectly, by another corporation may be required to
 5 make a report consolidated with the owning company, showing
 6 the combined net income, such assets of the corporation as
 7 are required for the purposes of this chapter, and such
 8 other information as the department may require, but
 9 excluding intercorporate stockholdings and intercorporate
 10 accounts. In case it shall appear to the department that any
 11 arrangement exists in such a manner as to improperly reflect
 12 the business done, the segregable assets, or the entire net
 13 income earned from business done in this state, the
 14 department is authorized and empowered to equitably adjust
 15 the tax in such manner as it may determine.

16 (6) (a) A majority of the corporation license tax
 17 collected from financial institutions is paid to local
 18 government areas in which each financial institution is
 19 located. However, consolidated returns for financial
 20 institutions do not reflect the true tax attributable to
 21 each local government. In addition, consolidated returns
 22 would permit financial institutions to offset income against
 23 losses of nonfinancial institutions, thereby distorting the
 24 true income of each financial organization.

25 (b) In accordance with subsection (6)(a), financial

1 institutions are prohibited from filing consolidated returns
 2 under this section.

3 (7) (a) When an affiliated group elects to file a
 4 consolidated return under the provisions of this section, a
 5 corporation of the affiliated group shall file a separate
 6 return for any portion of its taxable year in which its
 7 income is not included in the consolidated return of the
 8 group. The separate return must be filed no later than the
 9 15th day of the 5th month following the close of the taxable
 10 year for which a consolidated return of the affiliated group
 11 is filed.

12 (b) A 1-month to 6-month extension of time is
 13 automatically allowed for filing a return, provided that on
 14 or before the due date of the return, an application for an
 15 extension is made by the corporation. The application must
 16 be made on forms prescribed by the department."

17 NEW SECTION. Section 2. Retroactive applicability.
 18 [This act] applies retroactively, within the meaning of
 19 1-2-109, to taxable years beginning after December 31, 1990.

20 NEW SECTION. Section 3. Effective date. [This act] is
 21 effective on passage and approval.

-End-

1 *Senate* BILL NO. 147
 2 INTRODUCED BY *[Signature]*
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PROCEDURE
 6 FOR THE FILING OF A SHORT-PERIOD MONTANA CORPORATION LICENSE
 7 TAX RETURN BY CORPORATIONS PERMITTED TO FILE A MONTANA
 8 CONSOLIDATED CORPORATION LICENSE TAX RETURN; AMENDING
 9 SECTION 15-31-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 10 DATE AND A RETROACTIVE APPLICABILITY DATE."
 11

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

13 **Section 1.** Section 15-31-141, MCA, is amended to read:

14 "15-31-141. Consolidated returns -- computation and
 15 procedure -- prohibition on financial institutions. (1)
 16 Corporations which are affiliated may not file a
 17 consolidated return unless at least 80% of all classes of
 18 stock of each corporation involved is owned directly or
 19 indirectly by one or more members of the affiliated group.

20 (2) Corporations may not file a consolidated return
 21 unless the operation of the affiliated group constitutes a
 22 unitary business and, except for a unitary business
 23 operation described in subsection (2)(b), permission to file
 24 a consolidated return is given by the department of revenue.

25 For purposes of this section, a "unitary business operation"

1 means one in which:

2 (a) the business operations conducted by the
 3 corporations in the affiliated group are interrelated or
 4 interdependent to the extent that the net income of one
 5 corporation cannot reasonably be determined without
 6 reference to the operations conducted by the other
 7 corporations; or

8 (b) all of the corporations in the affiliated group are
 9 incorporated and operate exclusively in Montana, are not
 10 multistate corporations, and have filed a consolidated
 11 federal return for the tax year.

12 (3) The election to file a consolidated return is
 13 binding as long as the affiliated group continues to file a
 14 federal consolidated return.

15 (4) If the conditions of subsections (1) and (2) of
 16 this section are met, the department may require
 17 corporations to file a consolidated return when the
 18 department considers a consolidated return necessary.

19 (5) Any corporation liable to report under this chapter
 20 and owning or controlling, either directly or indirectly, at
 21 least 80% of all classes of stock of each corporation
 22 involved may be required to make a consolidated report
 23 showing the combined net income, such assets of the
 24 corporation as are required for the purposes of this
 25 chapter, and such other information as the department may



1 require, but excluding intercorporate stockholdings and
 2 intercorporate accounts. Any corporation liable to report
 3 under this chapter and owned or controlled, either directly
 4 or indirectly, by another corporation may be required to
 5 make a report consolidated with the owning company, showing
 6 the combined net income, such assets of the corporation as
 7 are required for the purposes of this chapter, and such
 8 other information as the department may require, but
 9 excluding intercorporate stockholdings and intercorporate
 10 accounts. In case it shall appear to the department that any
 11 arrangement exists in such a manner as to improperly reflect
 12 the business done, the segregable assets, or the entire net
 13 income earned from business done in this state, the
 14 department is authorized and empowered to equitably adjust
 15 the tax in such manner as it may determine.

16 (6) (a) A majority of the corporation license tax
 17 collected from financial institutions is paid to local
 18 government areas in which each financial institution is
 19 located. However, consolidated returns for financial
 20 institutions do not reflect the true tax attributable to
 21 each local government. In addition, consolidated returns
 22 would permit financial institutions to offset income against
 23 losses of nonfinancial institutions, thereby distorting the
 24 true income of each financial organization.

25 (b) In accordance with subsection (6)(a), financial

1 institutions are prohibited from filing consolidated returns
 2 under this section.

3 (7) (a) When an affiliated group elects to file a
 4 consolidated return under the provisions of this section, a
 5 corporation of the affiliated group shall file a separate
 6 return for any portion of its taxable year in which its
 7 income is not included in the consolidated return of the
 8 group. The separate return must be filed no later than the
 9 15th day of the 5th month following the close of the taxable
 10 year for which a consolidated return of the affiliated group
 11 is filed.

12 (b) A 1-month to 6-month extension of time is
 13 automatically allowed for filing a return, provided that on
 14 or before the due date of the return, an application for an
 15 extension is made by the corporation. The application must
 16 be made on forms prescribed by the department."

17 NEW SECTION. Section 2. Retroactive applicability.
 18 [This act] applies retroactively, within the meaning of
 19 1-2-109, to taxable years beginning after December 31, 1990.

20 NEW SECTION. Section 3. Effective date. [This act] is
 21 effective on passage and approval.

-End-

1 SENATE BILL NO. 147

2 INTRODUCED BY GAGE

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PROCEDURE
6 FOR THE FILING OF A SHORT-PERIOD MONTANA CORPORATION LICENSE
7 TAX RETURN BY CORPORATIONS PERMITTED TO FILE A MONTANA
8 CONSOLIDATED CORPORATION LICENSE TAX RETURN; AMENDING
9 SECTION 15-31-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
10 DATE AND A RETROACTIVE APPLICABILITY DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 **Section 1.** Section 15-31-141, MCA, is amended to read:

14 "15-31-141. Consolidated returns -- computation and
15 procedure -- prohibition on financial institutions. (1)
16 Corporations which are affiliated may not file a
17 consolidated return unless at least 80% of all classes of
18 stock of each corporation involved is owned directly or
19 indirectly by one or more members of the affiliated group.

20 (2) Corporations may not file a consolidated return
21 unless the operation of the affiliated group constitutes a
22 unitary business and, except for a unitary business
23 operation described in subsection (2)(b), permission to file
24 a consolidated return is given by the department of revenue.
25 For purposes of this section, a "unitary business operation"

1 means one in which:

2 (a) the business operations conducted by the
3 corporations in the affiliated group are interrelated or
4 interdependent to the extent that the net income of one
5 corporation cannot reasonably be determined without
6 reference to the operations conducted by the other
7 corporations; or

8 (b) all of the corporations in the affiliated group are
9 incorporated and operate exclusively in Montana, are not
10 multistate corporations, and have filed a consolidated
11 federal return for the tax year.

12 (3) The election to file a consolidated return is
13 binding as long as the affiliated group continues to file a
14 federal consolidated return.

15 (4) If the conditions of subsections (1) and (2) of
16 this section are met, the department may require
17 corporations to file a consolidated return when the
18 department considers a consolidated return necessary.

19 (5) Any corporation liable to report under this chapter
20 and owning or controlling, either directly or indirectly, at
21 least 80% of all classes of stock of each corporation
22 involved may be required to make a consolidated report
23 showing the combined net income, such assets of the
24 corporation as are required for the purposes of this
25 chapter, and such other information as the department may

1 require, but excluding intercorporate stockholdings and
 2 intercorporate accounts. Any corporation liable to report
 3 under this chapter and owned or controlled, either directly
 4 or indirectly, by another corporation may be required to
 5 make a report consolidated with the owning company, showing
 6 the combined net income, such assets of the corporation as
 7 are required for the purposes of this chapter, and such
 8 other information as the department may require, but
 9 excluding intercorporate stockholdings and intercorporate
 10 accounts. In case it shall appear to the department that any
 11 arrangement exists in such a manner as to improperly reflect
 12 the business done, the segregable assets, or the entire net
 13 income earned from business done in this state, the
 14 department is authorized and empowered to equitably adjust
 15 the tax in such manner as it may determine.

16 (6) (a) A majority of the corporation license tax
 17 collected from financial institutions is paid to local
 18 government areas in which each financial institution is
 19 located. However, consolidated returns for financial
 20 institutions do not reflect the true tax attributable to
 21 each local government. In addition, consolidated returns
 22 would permit financial institutions to offset income against
 23 losses of nonfinancial institutions, thereby distorting the
 24 true income of each financial organization.

25 (b) In accordance with subsection (6)(a), financial

1 institutions are prohibited from filing consolidated returns
 2 under this section.

3 (7) (a) When an affiliated group elects to file a
 4 consolidated return under the provisions of this section, a
 5 corporation of the affiliated group shall file a separate
 6 return for any portion of its taxable year in which its
 7 income is not included in the consolidated return of the
 8 group. The separate return must be filed no later than the
 9 15th day of the 5th month following the close of the taxable
 10 year for which a consolidated return of the affiliated group
 11 is filed.

12 (b) A 1-month to 6-month extension of time is
 13 automatically allowed for filing a return, provided that on
 14 or before the due date of the return, an application for an
 15 extension is made by the corporation. The application must
 16 be made on forms prescribed by the department."

17 **NEW SECTION. Section 2. Retroactive applicability.**
 18 [This act] applies retroactively, within the meaning of
 19 1-2-109, to taxable years beginning after December 31, 1990.

20 **NEW SECTION. Section 3. Effective date.** [This act] is
 21 effective on passage and approval.

-End-