LC 1262/01

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INTRODUCED Sporter Removes Man Hannys 1 Mr. Some

4 / A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 5 84-1509, R.C.M. 1947, TO PROVIDE AFFILIATED CORPORATIONS THE 6 PRIVILEGE OF FILING CONSOLIDATED RETURNS AND PROVIDING AN 7 IMMEDIATE EFFECTIVE DATE."

8

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

10 Section 1. Section 84-1509, R.C.N. 1947, is amended to 11 read as follows:

"84-1509. Consolidated returns -- computation and 12 procedure on. (1) Copporations which are affiliated may not 13 14 file members of an affiliated group may file a consolidated return whicese at least oights per dest 1905 of all - Classes 15 of-eteck-of-each-sepporation-invalved-is-onaed-directly-er 16 17 indirectly by one (1) or -- more -- acabers -- of -- the -- affiliated 18 group with respect to the corporation license tax imposed by 19 this chapter. The affiliated group shall file such consolidated return based on the same method as the group 20 files its federal consolidated income tax return, adjusting 21 items of income and expense in accordance with other 22 23 provisions of Title 84, chapter 15. 421-Corporations--may--not--file-a-censolidated-return 24 unless-the-oporation-of-the-affiliated-group--sonstitutes----25

unitary-business-and persission-to-file--a-consolidated 1 2 3 PREPORCE- of this - Gestion, -- - Banitary - business operation scans-one-in-which-the-business-operations-gondusted-by--the 5 5 isterdependent-to-the-oxtent-that-the--net--invore--of--one 7 corseration -- cannot -- reasonably -- be -- determined -- without reforeace-to-the operations conducted -- hy -- the -- other ۵ gerrosstiese-10 123-15- 560- 000ditions - 05-6400000 + 11-223-1-12) - 05 11 12 17 dopartment- considers-a-consolidated-return-negeoscart. 14 (2) As used in this section, the term "affiliated 15 group" means one or more chains of includible corporations 16 connected through stock ownership with a compon parent 17 corporation which is an includible corporation if: 18 (a) stock possessing at least 80% of the voting power 19 of all classes of stock and at least 80% of each class of 20 the nonvoting stock of each of the includible corporations 21 (except the common parent corporation) is owned directly by 22 one or more of the other includible corporations; and 23 (b) the common parent corporation cwns directly stock 24 possassing at least 80% of the voting power of all classes 25 of stock and at least 80% of each class of the nonvoting

INTRODUCED BILL

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1 stock of at least one of the other includible corporations.
2 As used in this subsection, the term "stock" does not
3 include nonvoting stock which is limited and preferred as to
a dividends.
5 (3) As used in this section, the term "includible

6 <u>corporation</u> <u>means any corporation subject to taxation under</u>
7 <u>this chapter.</u>

8 (4) Any corporation liable to report under this act 9 and owning, or controlling, either directly or indirectly, 10 at least eighty per cent (80%) of all classes of stock of each corporation involved, may be required to make a 11 12 consolidated report showing the combined net income [,] such 13 assets of the corporation as are required for the purposes of this act, and such other information as the state 14 15 department of revenue may require, but excluding 16 intercorporate stockholdings and intercorporate accounts. 17 Any corporation liable to report under this act and owned or 18 controlled, either directly or indirectly, by another 19 corporation may be required to make a report consolidated 20 with the owning company, showing the combined net income, 21 such assets of the corporation as are required for the 22 purposes of this act, and such other information as the 23 state department of revenue may require, but excluding 24 intercorporate stockholdings and intercorporate accounts. In 25 case it shall appear to the state department of revenue that

any arrangement exists in such a manner as to improperly 1 2 reflect the business done, the segregable assets or the entire net income earned from business done in this state, 3 the state department of revenue is authorized and empowered, ы in such manner as it may determine, to equitably adjust the 5 6 tax." 7 Section 2. Exclusions. This act does not apply to any corporation having income from business activity which is 8 9 taxable both within and without this state and subject to 10 allocation and apportionment under 84-1503. Section 3. Application. The amendments made by this 11

12 act apply to taxable years ending on or after December 31, 13 1976.

Section 4. Effective date. This act is effective on
its passage and approval.

-End-

STATE OF MONTANA.

REQUEST NO. 355-77

FISCAL NOTE

Form BD-15

In compliance with a written request received <u>February 3</u>, 19, 77, there is hereby submitted a Fiscal Note for <u>House B111, 345</u> 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

This bill provides affiliated corporations the privilege of filing consolidated returns and provides an immediate effective date.

ASSUMPTIONS

- Corporation license tax collections are estimated to be \$26.5M in FY 78 and \$28.0M in FY 79.
- 2. Actual corporation license tax data for FY 73, 74 and 75 indicate that, had the proposed legislation been in effect, the loss in revenue would be approximately 1.2%. This percentage loss will continue through FY 78 and FY 79.
- 3. Administrative costs will remain unchanged.

FISCAL IMPACT

Corporation License Tax		
under current law	\$26.500M	\$28.000M
Corporation License Tax		
under proposed law	\$26, <u>182M</u>	\$27.664M
TOTAL DECREASE	\$.318M	\$.336M

LONG-RANGE EFFECT

Revenue from corporation license tax would be about 1.2% less under the proposed law than it would be under current law.

PREPARED BY DEPARTMENT OF REVENUE

L. Trong for

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 9-77

STATE OF MONTANA

REQUEST NO. 355-77

FISCAL NOTE

Form BD-15

Revised

In con	npliance with a	written	request received	Februar	у З	, 19	7, the	re is hereby :	submitted a	Fiscal Note
	House Bill							-		

for <u>HOUSE BILL 345</u> 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.

THIS FISCAL NOTE REVISES THE ORIGINAL FISCAL NOTE

DESCRIPTION

This bill provides affiliated corporations the privilege of filing consolidated returns and provides an immediate effective date.

ASSUMPTIONS

- 1. Corporation license tax collections are estimated to be \$26.5M in FY 78 and \$28.0M in FY 79.
- 2. Actual corporation license tax data for FY 73, 74 and 75 indicate that, had the proposed legislation been in effect, the loss in revenue would be approximately 1.2%. This percentage loss will continue through FY 78 and FY 79.
- 3. Administrative costs will remain unchanged.

Assumption 2 is a result of a study of corporation license tax records of groups of * affiliated corporations.

There are two assumptions implicit in the calculation of fiscal impact: (1) most of the affiliated corporations will adopt the treatment afforded them under this bill and will file consolidated returns, and (2) there will be no dramatic increase or decrease in the number of affiliated corporations reporting net operating losses. Clearly, if the former assumption is not realized and fewer corporations avail themselves of the opportunity to file consolidated returns or, if the number of affiliated corporations reporting net operating losses were to decrease significantly, the attendant decline in corporation license tax revenue could be considerably smaller.

It should also be noted that it is impossible to estimate how much loss in revenue might result under current law from operating losses being carried forward during the biennium by members of affiliated groups. The estimated loss under this bill could be decreased by an amount equal to the reduction due to net operating losses carried forward under current law.

FISCAL IMPACT

	George and the Ideas and Wass	<u>FI 70</u>	<u>FI 79</u>
-1	Corporation License Tax under current law	\$26.500M	\$28.000M
	Corporation License Tax under proposed law	\$26.182M	\$27.664M
	TOTAL DECREASE	<u>\$.318M</u>	<u>\$.336M</u>

70

BUDGET DIRECTOR Office of Budget and Program Planning

Date:

(CONTINUED ON PAGE 2)

STATE OF MONTANA

REQUEST NO. 355-77

FISCAL NOTE

Form BD-15

Revised

In compliance with a written request received <u>February 3</u>, 19 <u>77</u>, there is hereby submitted a Fiscal Note for <u>House Bill 345</u>, 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.

PAGE 2

LONG-RANGE EFFECT

Revenue from corporation license tax could be reduced by as much as 1.2% below levels projected under current law.

PREPARED BY DEPARTMENT OF REVENUE

L. Fran

BUDGET DIRECTOR Office of Budget and Program Planning Date: <u>2-2/-27</u> -

HB 0345/02

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Approved by Committee on <u>Taxation</u>

1	HOUSE BILL NO. 345
2	INTRODUCED BY PORTER, RAMIREZ,
3	MOORE, HARRINGTON, GERKE, ECLANE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
6	84-1509, R.C.M. 1947, TO PROVIDE AFFILIATED CORPORATIONS THE
7	PRIVILEGE OF FILING CONSOLIDATED BETORNS AND PROVIDING AN
8	THMEDIATE EFFECTIVE DATE."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 84-1509, R.C.H. 1947, is amended to
12	read as follows:
13	984-1509. Consolidated returns — computation and
14	procedure on. (1) Corporations which are affiliated-may-met
15	file <u>members of an affiliated group may file</u> a consolidated
16	return unless at least sighty-per cent (80%)-of-allslasses
17	ofstockof-each-corporation-involved-is-cvbcd-directly-er
18	indirectly-by-one-{ ¹ }-ormoremembersoftheaffiliated
19	group with respect to the corporation license tax imposed by
20	this chapter. The affiliated group shall file such
21	<u>consolidated_return_based_en_the_same_method_asthegroup</u>
22	<u>files_its_federal_consolidated_incons_tat_feturnadjunting</u>
23	itops-of-income_abd_expense in_accordance_with REGULITIONS
24	PRONULGATED UNDER INTERNAL REVENUE CODE SECTION 1502 FICEPT
25	TO THE EXTENT SUCH REGULATIONS ARE IN COMPLICE WITH other

1 provisions of Title 84, chapter 15.

2	(2) Corporations may mot file -a - consolidated return
3	whless-the operation-of-the affiliated-groupconstitutesa
4	unitarybusinessandpermissiontofilea-concolidated
5	return-is-given-by-thestatedepartmentsirevenuerer
6	purposes-ofthissectionya-"unitary-business-operation"
7	scans-ono-in-whigh-the-bacinoss-operations-condected-bythe
8	corporationsintheaffiliated-group-are-interrelated-er
9	isterdependent-to-the-extent-that-the-notincomeofone
10	corporation
11	referencetotheoperationsGonductodbytheother
12	GGEPOFEttons.
13	{}}Ifthesepditionsef-subsections-(1)-aud-(2)ef
14	this-section-are-mety-the-state-departmentefrevenuemay
15	requirecorporations-to-file-a-consolidated-roturn-shee-the
16	dopartment-considers-a-000solidated-setura-necessasy.
17	(2) As used in this section, the term maffiliated
18	group" means one or more chains of includible corporations
19	<u>connected through stock ownership with a common parent</u>
20	<u>corporation which is an includible corporation if:</u>
21	<pre>(a) stock possessing at least 80% of the voting power</pre>
22	cf all classes of stock and at least 80% of each class of
23	the nonvoting stock of each of the includible corporations
24	(except the common parent corporation) is owned directly by
25	
23	one or more of the other includible corporations; and

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SECOND READING

BB 345

1 (b) the common parent corporation owns directly stock 2 possessing at least 80% of the voting power of all classes 3 of stock and at least 80% of each class of the nonvoting 4 stock of at least one of the other includible corporations. 5 As used in this subsection, the term "stock" does not 6 include nonvoting stock which is limited and preferred as to 7 dividends.

8 (3) As used in this section, the term "includible
 9 corporation" means any corporation subject to taxation under
 10 this chapter.

11 (4) Any corporation liable to report under this act 12 and owning, or controlling, either directly or indirectly. 13 at least eighty per cent (80%) of all classes of stock of 18 each corporation involved, may be required to make a 15 consolidated report showing the combined net income [.] such 16 assets of the corporation as are required for the purposes 17 of this act, and such other information as the state 18 department of revenue may require, but excluding intercorporate stockholdings and intercorporate accounts. 19 20 Any corporation liable to report under this act and owned or 21 controlled, either directly or indirectly, by another corporation may be required to make a report consolidated 22 23 with the owning company, showing the combined net income, 24 such assets of the corporation as are required for the 25 purposes of this act, and such other information as the

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HB 345

1 state department of revenue may require, but excluding intercorporate stockholdings and intercorporate accounts. In 2 case it shall appear to the state department of revenue that 3 8 any arrangement exists in such a manner as to improperly 5 reflect the business done, the segregable assets or the 6 entire net income earned from business done in this state, the state department of revenue is authorized and empowered, 7 8 in such manner as it may determine, to equitably adjust the 9 tax."

10 Section 2. Exclusions. This act does not apply to any 11 COEPORATION AFFILIATED GROUP OF CORPORATIONS OR MEMBER OF AN 12 APPILIATED GROUP OF CORPORATIONS having income from business activity which is taxable both with and without this state 13 14 15 THIS ACT DOES NOT PRECLUDE THE DEPARTMENT OF BEVENUE FROM 16 ELECTING TO COMBINE & CORPORATION UNDER SECTION 84-1503. 17 B.C.N. 1947. 18 Section 3. Application. The amendments made by this 19 act apply to taxable years ending on or after December 31,

20 1976.
21 Section 4. Effective date. This act is effective on

22 its passage and approval.

-End-

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1.	ROUSE BILL NO. 345
2	INTRODUCED BY PORTER, RAMIREZ,
3	MOORE, HARRINGTON, GERKE, BOLANE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
6	84-1509, B.C.M. 1947, TO PROVIDE AFFILIATED CORPORATIONS THE
7	PRIVILEGE OF FILING CONSOLIDATED RETURNS AND PROVIDING AN
8	INNEDIATE EFFECTIVE DATE."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 84-1509, R.C.M. 1947, is amended to
12	read as follows:
13	"84-1509. Consolidated returns computation and
14	procedure on. (1) Corporations which are affiliated may-not
15	file members of an affiliated group may file a consolidated
16	return unless-at-least-eighty-per-sont-{80%}-of-allslasses
17	of-~stockof-cach-corporation-involved-is-owned-directly-or
18	indirectly-by-one-{1}-ormoremembersoftheaffiliated
19	group with respect to the corporation license tax imposed by
20	this chapter. The affiliated group shall file such
21	consolidated_return based_on-the_same_methodasthegroup
22	<u>filesits_fedoral_conselidated_ipsers_tet_returnitsting</u>
23	itoms_of_income_and_expense in_accordance_with <u>REGULATIONS</u>
24	PROMULGATED UNDER INTERNAL REVENUE CODE SECTION 1502 FICEPT
25	TO THE EXTENT SUCH REGULATIONS ARE IN COMPLICE WITH other

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1 provisions of Title 84, chapter 15.

2	{2}Corporationsmaymotfilo-a-consolidated-setura
3	whleas-the-operation-of-the-affiliated-groupconstitutona
4	unitarybucinocoandpermissiontofilea-consolidated
5	roturn-is-givon-by-thestatedepartmentefrevenueFer
6	purposesofthissoctiona-Munitary-businoss-operations
7	moans-ong-in-whish-the-business-operations-conducted-bythe
8	gorporationsintheaffiliatedgroup-ere-interrelated-or
9	interdependent-to-the-extent-thatthenotiggeneofone
10	corporationcannotPoesciablybodeterminedvithout
11	referencetotheoperationsconductedbytheother
12	Gerperations.
13	{}}-~If-~thegonditionsof-subsections{}-and-{}-ef
14	this-costion-aro-mot, tho-state-departmentefrevenuenay
14 15	this costion are mot, the state department - of - revenue - may require - sorporations to file a sonsolidated return - when the
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15	require corporations to file a concolidated return
15 16	require
15 16 17	require corporations to file a consolidated return when the department considers a consolidated return necessary.
15 16 17 18	require corporations to file a consolidated return when the department considers a consolidated return necessary. (2) As used in this section, the term "affiliated group" means one or more chains of includible corporations
15 16 17 18 19	require corporations to file a consolidated return when the department considers a consolidated return necessary. (2) As used in this section, the term "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent
15 16 17 18 19 20	require corporations to file a consolidated return when the department considers a consolidated return necessary. (2) As used in this section, the term "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if:
15 16 17 18 19 20 21	require corporations to file a consolidated return when the department consolidated return necessary. (2) As used in this section, the term "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if: (a) stock possessing at least 80% of the voting power
15 16 17 18 19 20 21 22	require corporations to file a consolidated return when the department considers a consolidated return necessary. (2) As used in this section, the term "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if: (a) stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of

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THIRD READING

 1
 (b) the common parent corporation owns directly stock

 2
 Dossessing at least 80% of the voting power of all classes

 3
 of stock and at least 80% of each class of the nonvoting

 4
 stock of at least one of the other includible, corporations,

 5
 As used in this subsection, the ters "stock" does not

 6
 include nonvoting stock which is limited and preferred as to

 7
 dividends,

 8
 (3) As used in this section, the ters "includible

8 (3) As used in this section, the term "includible
 9 corporation" means any corporation subject to taxation under
 10 this chapter.

11 (4) Any corporation liable to report under this act 12 and owning, or controlling, either directly or indirectly. 13 at least eighty per cent (80%) of all classes of stock of 14 each corporation involved, may be required to make a 15 consolidated report showing the combined net income [.] such 16 assets of the corporation as are required for the purposes 17 of this act, and such other information as the state 18 department of revenue may require, but excluding 19 intercorporate stockholdings and intercorporate accounts. 20 Any corporation liable to report under this act and owned or 21 controlled, either directly or indirectly, by another 22 corporation may be required to make a report consolidated 23 with the owning company, showing the combined net income, 24 such assets of the corporation as are required for the 25 purposes 'of this act, and such other information as the

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HB 345

state department of revenue may require, but excluding 1 intercorporate stockholdings and intercorporate accounts. In 2 case it shall appear to the state department of revenue that 3 any arrangement exists in such a manner as to improperly a reflect the business done, the segregable assets or the 5 entire net income eached from business done in this state, 6 the state department of revenue is authorized and empowered, 7 in such manner as it may determine, to equitably adjust the 8 9 tar."

10 Section 2. Exclusions. This act does not apply to any 11 CORPORATION AFFILIATED GROUP OF CORPORATIONS OF MERBER OF AN APPILIATED GROUP OF CORPORATIONS having income from business 12 13 activity which is taxable both with and without this state and -- subject --- to-allocation-and-apportionsont--under-94-1503. 14 15 THIS ACT DOES NOT PRECLUDE THE DEPARTNENT OF REVENUE FROM ELECTING TO COMBINE & CORPORATION UNDER SECTION 84-1503, 16 B.C.H. 1947. 17 18 Section 3. Application. The amendments made by this

act apply to taxable years ending on or after December 31,
 1976.

21 Section 4. Effective date. This act is effective on
22 its passage and approval.

-End-

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