

1 *H* BILL NO. 345
 2 INTRODUCED *Pat Ramsey, Thru Harrington*
 3 *Bill 578 same*

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.M. 1947, is amended to
 11 read as follows:

12 "84-1509. Consolidated returns — computation and
 13 procedure on. (1) Corporations which are ~~affiliated may not~~
 14 file members of an affiliated group may file a consolidated
 15 return unless at least eighty per cent (80%) of all classes
 16 of stock of each corporation involved is owned directly or
 17 indirectly by one (1) or more members of the affiliated
 18 group with respect to the corporation license tax imposed by
 19 this chapter. The affiliated group shall file such
 20 consolidated return based on the same method as the group
 21 files its federal consolidated income tax return, adjusting
 22 items of income and expense in accordance with other
 23 provisions of Title 84, chapter 15.

24 ~~(2) Corporations may not file a consolidated return~~
 25 ~~unless the operation of the affiliated group constitutes a~~

1 ~~unitary business and permission to file a consolidated~~
 2 ~~return is given by the state department of revenue. For~~
 3 ~~purposes of this section, a "unitary business operation"~~
 4 ~~means one in which the business operations conducted by the~~
 5 ~~corporations in the affiliated group are interrelated or~~
 6 ~~interdependent to the extent that the net income of one~~
 7 ~~corporation cannot reasonably be determined without~~
 8 ~~reference to the operations conducted by the other~~
 9 ~~corporations.~~

10 ~~(3) If the conditions of subsections (1) and (2) of~~
 11 ~~this section are met, the state department of revenue may~~
 12 ~~require corporations to file a consolidated return when the~~
 13 ~~department considers a consolidated return necessary.~~

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 common 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 owns directly stock
 24 possessing at least 80% of the voting power of all classes
 25 of stock and at least 80% of each class of the nonvoting

HR 345

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
 4 dividends.

5 (3) As used in this section, the term "includible
 6 corporation" means any corporation subject to taxation under
 7 this chapter.

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
 11 each corporation involved, may be required to make a
 12 consolidated report showing the combined net income [,] such
 13 assets of the corporation as are required for the purposes
 14 of this act, and such other information as the state
 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

1 any arrangement exists in such a manner as to improperly
 2 reflect the business done, the segregable assets or the
 3 entire net income earned from business done in this state,
 4 the state department of revenue is authorized and empowered,
 5 in such manner as it may determine, to equitably adjust the
 6 tax."

7 Section 2. Exclusions. This act does not apply to any
 8 corporation having income from business activity which is
 9 taxable both within and without this state and subject to
 10 allocation and apportionment under 84-1503.

11 Section 3. Application. The amendments made by this
 12 act apply to taxable years ending on or after December 31,
 13 1976.

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

-End-

STATE OF MONTANA

REQUEST NO. 355-77

FISCAL NOTE

Form BD-15

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

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.

FISCAL IMPACT

Corporation License Tax under current law	\$26.500M	\$28.000M
Corporation License Tax under proposed law	<u>\$26.182M</u>	<u>\$27.664M</u>
TOTAL DECREASE	<u>\$.318M</u>	<u>\$.336M</u>

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

Richard L. Tracy
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-9-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 3, 19 77, there is hereby submitted a Fiscal Note for House Bill 345 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 NOTEDESCRIPTION

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

	<u>FY 78</u>	<u>FY 79</u>
Corporation License Tax under current law	\$26.500M	\$28.000M
Corporation License Tax under proposed law	<u>\$26.182M</u>	<u>\$27.664M</u>
TOTAL DECREASE	<u>\$.318M</u>	<u>\$.336M</u>

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

(CONTINUED ON PAGE 2)

FISCAL NOTE

Form BD-15

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


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-77

Approved by Committee
on Taxation

HOUSE BILL NO. 345

INTRODUCED BY PCHTER, RAMIREZ,
MOORE, HARRINGTON, GERKE, McLANE

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

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

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

"84-1509. Consolidated returns — computation and
procedure on. (1) Corporations which are affiliated ~~may not~~
file members of an affiliated group may file a consolidated
return ~~unless at least eighty per cent (80%) of all classes~~
~~of stock of each corporation involved is owned directly or~~
~~indirectly by one (1) or more members of the affiliated~~
group with respect to the corporation license tax imposed by
this chapter. The affiliated group shall file such
consolidated return based on the same method as the group
files its federal consolidated income tax return, adjusting
items of income and expense in accordance with REGULATIONS
PROMULGATED UNDER INTERNAL REVENUE CODE SECTION 1502 EXCEPT
TO THE EXTENT SUCH REGULATIONS ARE IN CONFLICT WITH other

provisions of Title 84, chapter 15.

~~(2) Corporations may not file a consolidated return~~
~~unless the operation of the affiliated group constitutes a~~
~~unitary business and permission to file a consolidated~~
~~return is given by the state department of revenue. For~~
~~purposes of this section, a "unitary business operation"~~
~~means one in which the business operations conducted by the~~
~~corporations in the affiliated group are interrelated or~~
~~interdependent to the extent that the net income of one~~
~~corporation cannot reasonably be determined without~~
~~reference to the operations conducted by the other~~
~~corporations.~~

~~(3) If the conditions of subsections (1) and (2) of~~
~~this section are met, the state department of revenue may~~
~~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
the nonvoting stock of each of the includible corporations
(except the common parent corporation) is owned directly by
one or more of the other includible corporations; and

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
 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

1 state department of revenue may require, but excluding
 2 intercorporate stockholdings and intercorporate accounts. In
 3 case it shall appear to the state department of revenue that
 4 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,
 7 the state department of revenue is authorized and empowered,
 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 ~~corporation~~ AFFILIATED GROUP OF CORPORATIONS OR MEMBER OF AN
 12 AFFILIATED GROUP OF CORPORATIONS having income from business
 13 activity which is taxable both with and without this state
 14 ~~and subject to allocation and apportionment under 84-1503.~~
 15 THIS ACT DOES NOT PRECLUDE THE DEPARTMENT OF REVENUE FROM
 16 ELECTING TO COMBINE A CORPORATION UNDER SECTION 84-1503,
 17 R.C.M. 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-

HOUSE BILL NO. 345

INTRODUCED BY PORTER, RAMIREZ,
MOORE, HARRINGTON, GERKE, McLANE

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

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

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

"84-1509. Consolidated returns — computation and procedure on. (1) Corporations which are ~~affiliated may not file members of an affiliated group may file~~ a consolidated return ~~unless at least eighty per cent (80%) of all classes of stock of each corporation involved is owned directly or indirectly by one (1) or more members of the affiliated group with respect to the corporation license tax imposed by this chapter. The affiliated group shall file such consolidated return based on the same method as the group files its federal consolidated income tax return, adjusting items of income and expense in accordance with REGULATIONS PROMULGATED UNDER INTERNAL REVENUE CODE SECTION 1502 EXCEPT TO THE EXTENT SUCH REGULATIONS ARE IN CONFLICT WITH~~ other

provisions of Title 84, chapter 15.

~~(2) Corporations may not file a consolidated return unless the operation of the affiliated group constitutes a unitary business and permission to file a consolidated return is given by the state department of revenue. For purposes of this section, a "unitary business operation" means one in which the business operations conducted by the corporations in the affiliated group are interrelated or interdependent to the extent that the net income of one corporation cannot reasonably be determined without reference to the operations conducted by the other corporations.~~

~~(3) If the conditions of subsections (1) and (2) of this section are met, the state department of revenue may 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 the nonvoting stock of each of the includible corporations (except the common parent corporation) is owned directly by one or more of the other includible corporations; and

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
 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

1 state department of revenue may require, but excluding
 2 intercorporate stockholdings and intercorporate accounts. In
 3 case it shall appear to the state department of revenue that
 4 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,
 7 the state department of revenue is authorized and empowered,
 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 ~~corporation~~ AFFILIATED GROUP OF CORPORATIONS OR MEMBER OF AN
 12 AFFILIATED GROUP OF CORPORATIONS having income from business
 13 activity which is taxable both with and without this state
 14 ~~and subject to allocation and apportionment under 84-1503.~~
 15 THIS ACT DOES NOT PRECLUDE THE DEPARTMENT OF REVENUE FROM
 16 ELECTING TO COMBINE A CORPORATION UNDER SECTION 84-1503,
 17 R.C.M. 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-