

HOUSE BILL NO. 80

INTRODUCED BY DASSINGER

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 8, 1979	Introduced and referred to Committee on Taxation.
January 22, 1979	Committee recommend bill do pass as amended. Report adopted.
January 23, 1979	Printed and placed on members' desks.
January 24, 1979	Second reading, do pass.
January 25, 1979	Considered correctly engrossed.
January 26, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

January 27, 1979	Introduced and referred to Committee on Taxation.
March 1, 1979	Fiscal note requested.
March 2, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 5, 1979	Fiscal note returned. Second reading, concurred in.
March 7, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 8, 1979	Returned from second house. Concurred in as amended.
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March 14, 1979

Second reading, amendments  
adopted.

March 15, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

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 2 INTRODUCED BY Dassinger  
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT  
 6 UNRELATED BUSINESS INCOME OF EXEMPT CORPORATIONS, AS DEFINED  
 7 BY THE INTERNAL REVENUE CODE, SHALL BE TAXED AS ANY OTHER  
 8 CORPORATE INCOME; AMENDING SECTION 15-31-102, MCA, AND  
 9 PROVIDING AN EFFECTIVE DATE."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-31-102, MCA, is amended to read:

13 "15-31-102. Organizations exempt from tax. (1) ~~Except~~  
 14 ~~as provided in subsection (3), there shall~~ not be  
 15 taxed under this title any income received by any:

16 (a) labor, agricultural, or horticultural  
 17 organization;

18 (b) fraternal beneficiary, society, order, or  
 19 association operating under the lodge system or for the  
 20 exclusive benefit of the members of a fraternity itself  
 21 operating under the lodge system and providing for the  
 22 payment of life, sick, accident, or other benefits to the  
 23 members of such society, order, or association or their  
 24 dependents;

25 (c) cemetery company owned and operated exclusively

1 for the benefit of its members;

2 (d) corporation or association organized and operated  
 3 exclusively for religious, charitable, scientific, or  
 4 educational purposes, no part of the net income of which  
 5 inures to the benefit of any private stockholder or  
 6 individual;

7 (e) business league, chamber of commerce, or board of  
 8 trade not organized for profit and no part of the net income  
 9 of which inures to the benefit of any private stockholder or  
 10 individual;

11 (f) civic league or organization not organized for  
 12 profit but operated exclusively for the promotion of social  
 13 welfare;

14 (g) club organized and operated exclusively for  
 15 pleasure, recreation, and other nonprofitable purposes, no  
 16 part of the net income of which inures to the benefit of any  
 17 private stockholder or member's;

18 (h) farmers' or other mutual hail, cyclone, or fire  
 19 insurance company, mutual ditch or irrigation company,  
 20 mutual or cooperative telephone company, or like  
 21 organization of a purely local character, the income of  
 22 which consists solely of assessments, dues, and fees  
 23 collected from members for the sole purpose of meeting its  
 24 expenses;

25 (i) any cooperative association or corporation engaged

INTRODUCED BILL  
 HE 80

1 in the business of operating a rural electrification system  
2 or systems for the transmission or distribution of  
3 electrical energy on a cooperative basis;

4 (j) corporations or associations organized for the  
5 exclusive purpose of holding title to property, collecting  
6 income therefrom, and turning over the entire amount  
7 thereof, less expenses, to an organization which itself is  
8 exempt from the tax imposed by this title.

9 (2) In determining the license fee to be paid under  
10 this part, there shall not be included any earnings derived  
11 from any public utility managed or operated by any  
12 subdivision of the state or from the exercise of any  
13 governmental function.

14 ~~(3) Any unrelated business income, as defined by~~  
15 ~~section 512 of the Internal Revenue Code, 1954, as amended,~~  
16 ~~earned by any exempt corporation shall be taxed as other~~  
17 ~~corporation income is taxed under this title."~~

18 Section 2. Effective date. This act is effective for  
19 tax years beginning on or after December 31, 1976.

-End-

## STATE OF MONTANA

Request No. 431-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received March 2, 1979, there is hereby submitted a Fiscal Note for House Bill 80 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 proposed bill provides that unrelated business income of exempt corporations, as defined by the internal revenue code, shall be taxed as any other corporate income.

## ASSUMPTIONS:

1. The Department of Revenue projections for corporation license tax collections of \$35 M in FY 80 and FY 81 are correct.
2. The proposal will increase revenues by approximately \$25,000 to \$50,000 in FY 80 and FY 81.

## FISCAL IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Corporation license tax collections		
under current law	\$ 35,000,000	\$ 35,000,000
under proposed law	<u>\$35,025,000 to \$35,050,000</u>	<u>\$35,025,000 to \$35,050,000</u>
Estimated Increase	<u>\$ 25,000 to \$ 50,000</u>	<u>\$ 25,000 to \$ 50,000</u>
 Total Revenue		
under current law	\$ 35,000,000	\$ 35,000,000
under proposed law	<u>\$35,025,000 to \$35,050,000</u>	<u>\$35,025,000 to \$35,050,000</u>
Estimated Increase	<u>\$ 25,000 to \$ 50,000</u>	<u>\$ 25,000 to \$ 50,000</u>

The additional revenue will accrue 64% to the State General Fund, 25% to the Public School Equalization Earmarked Revenue Account, and 11% to the Long-Range Building Sinking Account.

*Richard L. Drury for*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 3/5/79

Approved by Committee  
on Taxation

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6                   UNRELATED BUSINESS INCOME OF EXEMPT CORPORATIONS, AS DEFINED  
7                   BY THE INTERNAL REVENUE CODE, SHALL BE TAXED AS ANY OTHER  
8                   CORPORATE INCOME; AMENDING SECTION 15-31-102, MCA, AND  
9                   PROVIDING AN EFFECTIVE DATE."  
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11                   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
12                   Section 1. Section 15-31-102, MCA, is amended to read:  
13                   "15-31-102. Organizations exempt from tax. (1) Except  
14                   ~~as provided in subsection (3), there there~~ shall not be  
15                   taxed under this title any income received by any:  
16                   (a) labor, agricultural, or horticultural  
17                   organization;  
18                   (b) fraternal beneficiary, society, order, or  
19                   association operating under the lodge system or for the  
20                   exclusive benefit of the members of a fraternity itself  
21                   operating under the lodge system and providing for the  
22                   payment of life, sick, accident, or other benefits to the  
23                   members of such society, order, or association or their  
24                   dependents;  
25                   (c) cemetery company owned and operated exclusively

1                   for the benefit of its members;  
2                   (d) corporation or association organized and operated  
3                   exclusively for religious, charitable, scientific, or  
4                   educational purposes, no part of the net income of which  
5                   inures to the benefit of any private stockholder or  
6                   individual;  
7                   (e) business league, chamber of commerce, or board of  
8                   trade not organized for profit and no part of the net income  
9                   of which inures to the benefit of any private stockholder or  
10                   individual;  
11                   (f) civic league or organization not organized for  
12                   profit but operated exclusively for the promotion of social  
13                   welfare;  
14                   (g) club organized and operated exclusively for  
15                   pleasure, recreation, and other nonprofitable purposes, no  
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17                   private stockholder or members;  
18                   (h) farmers' or other mutual hail, cyclone, or fire  
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21                   organization of a purely local character, the income of  
22                   which consists solely of assessments, dues, and fees  
23                   collected from members for the sole purpose of meeting its  
24                   expenses;  
25                   (i) any cooperative association or corporation engaged

1 in the business of operating a rural electrification system  
2 or systems for the transmission or distribution of  
3 electrical energy on a cooperative basis;

4 (j) corporations or associations organized for the  
5 exclusive purpose of holding title to property, collecting  
6 income therefrom, and turning over the entire amount  
7 thereof, less expenses, to an organization which itself is  
8 exempt from the tax imposed by this title.

9 (2) In determining the license fee to be paid under  
10 this part, there shall not be included any earnings derived  
11 from any public utility managed or operated by any  
12 subdivision of the state or from the exercise of any  
13 governmental function.

14 ~~(3) Any unrelated business income, as defined by~~  
15 ~~section 512 of the Internal Revenue Code, 1954, as amended,~~  
16 ~~earned by any exempt corporation RESULTING IN A FEDERAL~~  
17 ~~UNRELATED BUSINESS INCOME TAX LIABILITY OF MORE THAN \$100~~  
18 ~~shall be taxed as other corporation income is taxed under~~  
19 ~~this title. AN EXEMPT CORPORATION SUBJECT TO TAXATION ON~~  
20 ~~UNRELATED BUSINESS INCOME UNDER THIS SECTION MUST FILE A~~  
21 ~~COPY OF ITS FEDERAL EXEMPT ORGANIZATION BUSINESS INCOME TAX~~  
22 ~~RETURN, FORM 990-T, WITH THE DEPARTMENT OF REVENUE."~~

23 Section 2. Effective date. This act is effective for  
24 tax years beginning on or after December 31, 1978.

-End-

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 20 UNRELATED BUSINESS INCOME UNDER THIS SECTION MUST FILE A  
 21 COPY OF ITS FEDERAL EXEMPT ORGANIZATION BUSINESS INCOME TAX  
 22 RETURN, FORM 990-F, ON WHICH IT REPORTS ITS UNRELATED  
 23 BUSINESS INCOME WITH THE DEPARTMENT OF REVENUE."

24 Section 2. Effective date. This act is effective for  
 25 tax years beginning on or after December 31, 1979.

March 2, 1979

SENATE STANDING COMMITTEE REPORT  
(Taxation)

That House Bill No. 80 be amended as follows:

1. Page 3, line 22.

Following: "RETURN"

Strike: ", FORM 990-T,"

Insert: "on which it reports its unrelated business income"