

Senate Bill 384

In The Senate

February 7, 1981	Introduced and referred to Committee on Taxation.
February 9, 1981	Fiscal note requested.
February 12, 1981	Fiscal note returned.
March 27, 1981	Committee recommend bill do not pass.

1 *Senate* BILL NO. *384*
2 INTRODUCED BY *Hager*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 15-31-141, MCA, TO GIVE AFFILIATED CORPORATIONS THE OPTION
6 OF FILING CONSOLIDATED RETURNS AND TO PROVIDE AN APPLICATION
7 CLAUSE AND AN IMMEDIATE EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

11 "15-31-141. Consolidated returns -- computation and
12 procedure. (1) Corporations which are ~~affiliated~~ may not
13 file ~~members of an affiliated group~~ may file a consolidated
14 return unless ~~at least 80% of all classes of stock of each~~
15 ~~corporation involved is owned directly or indirectly by one~~
16 ~~or more members of the affiliated group~~ with respect to the
17 ~~corporation license tax imposed by this chapter. The~~
18 ~~affiliated group shall file a consolidated return based on~~
19 ~~the same method as the group files its federal consolidated~~
20 ~~income tax return, adjusting items of income and expense in~~
21 ~~accordance with other provisions of Title 15, chapter 31.~~

22 (2) ~~Corporations may not file a consolidated return~~
23 ~~unless the operation of the affiliated group constitutes a~~
24 ~~unitary business and permission to file a consolidated~~
25 ~~return is given by the department of revenue for purposes~~

1 ~~of this section a "unitary business operation" means one in~~
2 ~~which the business operations conducted by the corporations~~
3 ~~in the affiliated group are interrelated or interdependent~~
4 ~~to the extent that the net income of one corporation cannot~~
5 ~~reasonably be determined without reference to the operations~~
6 ~~conducted by the other corporations As used in this section,~~
7 ~~the term "affiliated group" means one or more chains of~~
8 ~~includible corporations connected through stock ownership~~
9 ~~with a common parent corporation that is an includible~~
10 ~~corporation if, with respect to the parent corporation:~~

11 (a) ~~stock possessing at least 80% of the voting power~~
12 ~~of all classes of stock and at least 80% of each class of~~
13 ~~the nonvoting stock of each of the includible corporations~~
14 ~~(except the common parent corporation) is owned directly by~~
15 ~~one or more of the other includible corporations; and~~

16 (b) ~~the common parent corporation directly owns stock~~
17 ~~possessing at least 80% of the voting power of all classes~~
18 ~~of stock and at least 80% of each class of the nonvoting~~
19 ~~stock of at least one of the other includible corporations.~~

20 (3) ~~As used in subsection (2), the term "stock" does~~
21 ~~not include nonvoting stock that is limited and preferred as~~
22 ~~to dividends.~~

23 (3)(4) ~~if the conditions of subsections (1) and (2) of~~
24 ~~this section are met, the department may require~~
25 ~~corporations to file a consolidated return when the~~

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~~department considers a consolidated return necessary As used in subsection (2), the term "includible corporation" means any corporation subject to taxation under this chapter.~~

(4)(5) Any corporation liable to report under this chapter and owning or controlling, either directly or indirectly, at least 80% of all classes of stock of each corporation involved may be required to make a consolidated report showing the combined net income, such assets of the corporation as are required for the purposes of this chapter, and such other information as the department may require, but excluding intercorporate stockholdings and intercorporate accounts. Any corporation liable to report under this chapter and owned or controlled, either directly or indirectly, by another corporation may be required to make a report consolidated with the owning company, showing the combined net income, such assets of the corporation as are required for the purposes of this chapter, and such other information as the department may require, but excluding intercorporate stockholdings and intercorporate accounts. In case it shall appear to the department that any arrangement exists in such a manner as to improperly reflect the business done, the segregable assets, or the entire net income earned from business done in this state, the department is authorized and empowered to equitably adjust the tax in such manner as it may determine."

~~NEW SECTION.~~ Section 2. Exclusions. Section 15-31-141 does not apply to any corporation having income from business activity that is taxable both within and without this state and subject to allocation and apportionment under Title 15, chapter 31, part 3.

Section 3. Application. This act applies to taxable years ending on or after December 31, 1980.

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

-End-

STATE OF MONTANA

REQUEST NO. 326-81

FISCAL NOTE

Form BD 15

In compliance with a written request received February 11, 1981, there is hereby submitted a Fiscal Note for SENATE BILL 384 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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.

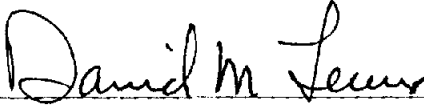
DESCRIPTION

An act to give affiliated corporations the option of filing consolidated returns and to provide an application clause and an immediate effective date.

FISCAL IMPACT

This proposal will produce a decrease in corporation license tax revenue of roughly \$2 million in each fiscal year. At least one quarter of the decrease would be attributable to financial institutions which means that a few local governments would collectively suffer a revenue loss of approximately \$400,000 each fiscal year. (Eighty percent of the corporation license tax collected from each financial institution is allocated to the county in which the institution is located.)

PREPARED BY THE DEPARTMENT OF REVENUE



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-12-81

STATE OF MONTANA

REQUEST NO. 326-81
~~REVISED~~

FISCAL NOTE

Form BD 15

In compliance with a written request received February 19, 1981, there is hereby submitted a Fiscal Note for SENATE BILL 384 (REVISED) pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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 IS A REVISED FISCAL NOTE

DESCRIPTION

An act to give affiliated corporations the option of filing consolidated returns and to provide an application clause and an immediate effective date.

FISCAL IMPACT

This proposal will produce a decrease in corporation license tax revenue of roughly \$1 million in each fiscal year. At least 40 percent of the decrease would be attributable to financial institutions which means that local governments would collectively suffer a revenue loss of approximately \$320,000 each fiscal year, exclusive of intercompany dividends. (Eighty percent of the corporation license tax collected from each financial institution is allocated to the county in which the institution is located.)

Corporation License Tax	FY 82	FY 83
Under current law	\$45,700,000	\$46,400,000
Under proposed law	44,700,000	45,400,000
Estimated Decrease	(\$ 1,000,000)	(\$ 1,000,000)

TECHNICAL NOTE

This revision was made necessary due to an error in the information used to estimate the fiscal impact.

PREPARED BY THE DEPARTMENT OF REVENUE

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/20/81