HOUSE BILL NO. 222

INTRODUCED BY THOMAS

IN THE HOUSE

	IN THE HOUSE
JANUARY 15, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 16, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 17, 1987	PRINTING REPORT.
MARCH 18, 1987	SECOND READING, DO PASS.
MARCH 19, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 89; NOES, 7.
	TRANSMITTED TO SENATE.
	IN THE SENATE
MARCH 20, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 28, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1987	SECOND READING, CONCURRED IN.
APRIL 1, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.
	IN THE HOUSE
APRIL 1, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

LC 0321/01

Montana Legislative Council

INTRODUCED BY TAMA 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CORPORATIONS 4 IN AN AFFILIATED GROUP TO FILE A CONSOLIDATED CORPORATION 5 INCOME TAX RETURN IF ALL CORPORATIONS ARE INCORPORATED IN 6 7 MONTANA, OWNED BY MONTANA RESIDENTS, AND FILING A CONSOLIDATED FEDERAL RETURN; AMENDING SECTION 15-31-141, 8 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A 9 10 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) Corporations which are affiliated may not file a 16 consolidated return unless at least 80% of all classes of 17 stock of each corporation involved is owned directly or 18 indirectly by one or more members of the affiliated group. 19 20 (2) Corporations may not file a consolidated return unless the operation of the affiliated group constitutes a 21 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"

LC 0321/01

1	means one in which <u>:</u>
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 <u>; or</u>
8	(b) all of the corporations in the affiliated group
9	are incorporated in Montana, all shareholders of those
10	corporations are Montana residents, and those corporations
11	have filed a consolidated federal return for the tax year.
12	(3) If the conditions of subsections (1) and (2) of
13	this section are met, the department may require
14	corporations to file a consolidated return when the
15	department considers a consolidated return necessary.
16	(4) Any corporation liable to report under this
17	chapter and owning or controlling, either directly or
18	indirectly, at least 80% of all classes of stock of each
19	corporation involved may be required to make a consolidated
20	report showing the combined net income, such assets of the
21	corporation as are required for the purposes of this
22	chapter, and such other information as the department may
23	require, but excluding intercorporate stockholdings and

intercorporate accounts. Any corporation liable to report

under this chapter and owned or controlled, either directly

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INTRODUCED BILL -2-H8-222

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

(5) (a) A majority of the corporation license tax 13 14 collected from financial institutions is paid to local 15 government areas in which each financial institution is 16 located. However, consolidated returns for financial 17 institutions do not reflect the true tax attributable to 18 each local government. In addition, consolidated returns 19 would permit financial institutions to offset income against 20 losses of nonfinancial institutions, thereby distorting the 21 true income of each financial organization.

(b) In accordance with subsection (5)(a), financial
institutions are prohibited from filing consolidated returns
under this section."

25 <u>NEW SECTION.</u> Section 2. Extension of authority. Any

existing authority of the department of revenue to make
 rules on the subject of the provisions of this act is
 extended to the provisions of this act.

<u>NEW SECTION.</u> Section 3. Effective date -applicability. (1) This act is effective on passage and
approval.

7 (2) This act applies retroactively, within the meaning
8 of 1-2-109, to taxable years beginning after December 31,
9 1982.

-End-

-4-

-3-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB222, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing corporations in an affiliated group to file a consolidated corporation income tax return if all of the corporations are incorporated in Montana, owned by Montana residents, and filing a consolidated federal return; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

N/A

FISCAL IMPACT:

The proposal would allow some Montana corporations to file consolidated tax returns to reduce their corporate license tax payments (based on experience of requests). The number of corporations who would be allowed to file consolidated returns and the impact of the proposal depends on the pattern of ownership of corporate taxpayers. Estimates of the impact would require a special study, done with the cooperation of taxpayers, to get the needed ownership information. Such a study would take weeks to complete.

It is the judgement of the audit staff that the proposal would reduce corporate tax collections. However, without the study mentioned above it is impossible to estimate the magnitude of these losses.

The retroactive applicability date of the proposal, to tax years beginning after December 31, 1982, will greatly increase the impact of the proposal in the first years it is effective. Corporations who would benefit from the proposal can be expected to apply for refunds of a portion of their previous tax payments.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION: N/A

DAVID L. HUNTER, WUDGET DIRECTOR Office of Budget and Program Planning

DATE FREK PRIMARY SPONSOR

Fiscal Note for HB222, as introduced.

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50th Legislature

HB 0222/02

APPROVED BY COMMITTEE ON TAXATION

1	HOUSE BILL NO. 222	1	means one in which:
2	INTRODUCED BY THOMAS	2	(a) the bus
3		3	corporations in the
4	A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CORPORATIONS	4	interdependent to
5	IN AN AFFILIATED GROUP TO FILE A CONSOLIDATED CORPORATION	5	corporation cannot
6	INCOME TAX RETURN IF ALL CORPORATIONS ARE INCORPORATED IN	б	reference to the
7	MONTANA, OWNED BY MONTANA RESIDEN'SS, AND FILING A	7	corporations; or
8	CONSOLIDATED FEDERAL RETURN; AMENDING SECTION 15-31-141,	8	(b) all of the
9	MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A	9	are incorporated
10	RETROACTIVE APPLICABILITY DATE."	10	shareholders-of-the
11		11	NOT MULTISTATE CORPO
1 2	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	12	filed a consolidate
13	Section 1. Section 15-31-141, MCA, is amended to read:	13	(3) THE ELEC
14	"15-31-141. Consolidated returns computation and	14	BINDING AS LONG AS
15	procedure prohibition on financial institutions. (1)	15	FEDERAL CONSOLIDATE
16	Corporations which are affiliated may not file a	16	(3)<u>(4)</u> If the
17	consolidated return unless at least 80% of all classes of	17	this section ar
18	stock of each corporation involved is owned directly or	18	corporations to f
19	indirectly by one or more members of the affiliated group.	19	department consider.
20	(2) Corporations may not file a consolidated return	20	(4)<u>(5)</u> Any c
21	unless the operation of the affiliated group constitutes a	21	chapter and owning
22	unitary business and, except for a unitary business	22	indirectly, at lea
23	operation described in subsection (2)(b), permission to file	23	corporation involve
24	a consolidated return is given by the department of revenue.	24	report showing th
25	For purposes of this section, a "unitary business operation"	25	corporation as ar

business operations conducted by the n the affiliated group are interrelated or to the extent that the net income of one reasonably be determined without annot operations conducted by the other the or of the corporations in the affiliated group ited AND OPERATE EXCLUSIVELY in Montana, all f-those-corporations-are-Montana-residents ARE CORPORATIONS, and those-corporations have idated federal return for the tax year. ELECTION TO FILE A CONSOLIDATED RETURN IS G AS THE AFFILIATED GROUP CONTINUES TO FILE A IDATED RETURN. If the conditions of subsections (1) and (2) of are met, the department may require to file a consolidated return when the siders a consolidated return necessary. Any corporation liable to report under this owning or controlling, either directly or t least 80% of all classes of stock of each wolved may be required to make a consolidated

4 report showing the combined net income, such assets of the 5 corporation as are required for the purposes of this

- 2 -



HB 222 SECOND READING

1 chapter, and such other information as the department may 2 require, but excluding intercorporate stockholdings and 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 7 the combined net income, such assets of the corporation as are required for the purposes of this chapter, and such 8 9 information as the department may require, but other excluding intercorporate stockholdings and intercorporate 10 accounts. In case it shall appear to the department that any 11 12 arrangement exists in such a manner as to improperly reflect 13 the business done, the segregable assets, or the entire net income earned from business done in this state, 14 the 15 department is authorized and empowered to equitably adjust the tax in such manner as it may determine. 16

17 (5)(6) (a) A majority of the corporation license tax collected from financial institutions is paid to local 18 19 government areas in which each financial institution is However, consolidated returns for financial 20 located. 21 institutions do not reflect the true tax attributable to 22 each local government. In addition, consolidated returns would permit financial institutions to offset income against 23 24 losses of nonfinancial institutions, thereby distorting the 25 true income of each financial organization.

HB 0222/02

(b) In accordance with subsection (5)(a),
 financial institutions are prohibited from filing
 consolidated returns under this section."

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existing authority of the department of revenue to make
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extended to the provisions of this act.

8 <u>NEW SECTION.</u> Section 3. Effective date --9 applicability. (1) This act is effective on passage and 10 approval.

(2) This act applies retroactively, within the meaning
 of 1-2-109, to taxable years beginning after December 31,
 13 1982 1986.

-End-

- 3--

-4-

50th Legislature

HB 0222/02

APPROVED BY COMMITTEE

HOUSE BILL NO. 222 INTRODUCED BY THOMAS

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HB 0222/02

1 means one in which:

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8 (b) all of the corporations in the affiliated group
 9 are incorporated AND OPERATE EXCLUSIVELY in Montana, all
 10 shareholders-of-those-corporations-are-Montana-residents ARE
 11 NOT MULTISTATE CORPORATIONS, and those-corporations have
 12 filed a consolidated federal return for the tax year.
 13 (3) THE ELECTION TO FILE A CONSOLIDATED RETURN IS
 14 BINDING AS LONG AS THE APPILIATED GROUP CONTINUES TO FILE A

15 FEDERAL CONSOLIDATED RETURN.

16 (3)(4) If the conditions of subsections (1) and (2) of 17 this section are met, the department may require 18 corporations to file a consolidated return when the 19 department considers a consolidated return necessary.

20 (4)(5) Any corporation liable to report under this 21 chapter and owning or controlling, either directly or 22 indirectly, at least 80% of all classes of stock of each 23 corporation involved may be required to make a consolidated 24 report showing the combined net income, such assets of the 25 corporation as are required for the purposes of this

-2-

THIRD READING

HB 222

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HB 0222/02

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HB 0222/02

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50th Legislature

HB 0222/02

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HB 0222/02

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-2-

HB 222

REFERENCE BILL

HB 0222/02

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HB 222

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HB 0222/02

HB 222