

SB 61 INTRODUCED BY HALLIGAN, PINSONEAULT
PROVIDING CORPORATION LICENSE AND INCOME TAX
EXEMPTION FOR NEW CORPORATIONS

1/06 INTRODUCED
1/06 REFERRED TO TAXATION
1/07 FISCAL NOTE REQUESTED
1/12 FISCAL NOTE RECEIVED
1/14 HEARING
1/16 TABLED IN COMMITTEE

1 purposes of this section.

2 (4) Failure by an applicant to provide information
3 required by the department under subsection (2)(b) or
4 failure to file within the time allowed under subsection
5 (2)(c) automatically disqualifies the applicant from being
6 designated and treated as a new corporation for the purposes
7 of this section.

8 (5) The director of the department may grant an
9 extension of time for an applicant to file an application
10 for treatment as a new corporation, provided that the
11 extension is given in writing and the extension does not
12 extend beyond 30 days from the date the application was
13 required to be filed under subsection (2)(c).

14 (6) For the purpose of calculating or otherwise
15 determining the period for which a deduction, exclusion,
16 exemption, or credit may be taken under the provisions of
17 this chapter, the department shall disregard a corporation's
18 first year of activity and administer the deduction,
19 exclusion, exemption, or credit as if the corporation did
20 not exist during the first year of activity. This treatment
21 of a new corporation extends to net operating loss carryback
22 and net operating loss carryforward provisions allowed under
23 this chapter.

24 Section 3. Section 15-31-101, MCA, is amended to read:

25 "15-31-101. Organizations subject to tax. (1) The term

1 "corporation" includes associations, joint-stock companies,
2 common-law trusts and business trusts which do business in
3 an organized capacity, and all other corporations whether
4 created, organized, or existing under and pursuant to the
5 laws, agreements, or declarations of trust of any state,
6 country, or the United States.

7 (2) The terms "engaged in business" and "doing
8 business" both mean actively engaging in any transaction for
9 the purpose of financial or pecuniary gain or profit.

10 (3) Every corporation, except ~~as hereinafter provided~~
11 ~~and except~~ as provided in [section 2], 33-2-705(6), or as
12 may be otherwise specifically provided, engaged in business
13 in the state of Montana shall annually pay to the state
14 treasurer as a license fee for the privilege of carrying on
15 business in this state such percentage or percentages of its
16 total net income for the preceding taxable year at the rate
17 hereinafter set forth. In the case of corporations having
18 income from business activity which is taxable both within
19 and without this state, the license fee shall be measured by
20 the net income derived from or attributable to Montana
21 sources as determined under part 3. This tax is due and
22 payable on the 15th day of the 5th month following the close
23 of the taxable year of the corporation; however, the tax
24 becomes a lien as provided in this chapter on the last day
25 of the taxable year in which the income was earned and is

1 for the privilege of carrying on business in this state for
2 the taxable year in which the income was earned.

3 (4) Every bank organized under the laws of the state
4 of Montana, of any other state, or of the United States and
5 every savings and loan association organized under the laws
6 of this state or of the United States is subject to the
7 Montana corporation license tax provided for under this
8 chapter. For taxable years beginning on and after January 1,
9 1972, this subsection is effective in accordance with Public
10 Law 91-156, section 2 (12 U.S.C. 548)."

11 Section 4. Section 15-31-401, MCA, is amended to read:

12 "15-31-401. Application of license and income taxes.

13 (1) It is the intent of the legislature that the
14 corporation license tax shall be applied to all corporations
15 subject to taxation under part 1 of this chapter. The Except
16 as provided in subsection (2), the income tax provided by
17 this part shall be applied to corporations that are not
18 taxable under part 1 of this chapter but are taxable under
19 an income tax.

20 (2) A new corporation as defined in [section 1] is not
21 subject to either the corporation license tax provided in
22 part 1 of this chapter or to the corporation income tax
23 provided in this part during the new corporation's first
24 year of activity."

25 Section 5. Section 15-31-403, MCA, is amended to read:

1 "15-31-403. Rate of tax imposed -- income from sources
2 within state defined -- alternative tax. (1) There Except as
3 provided in 15-31-401, there is hereby imposed upon every
4 corporation for each taxable year an income tax at the rate
5 specified in 15-31-121 and 15-31-122 upon its net income
6 derived from sources within this state for taxable years
7 beginning after December 31, 1970, other than income for any
8 period for which the corporation is subject to taxation
9 under part 1 of this chapter, according to or measured by
10 its net income.

11 (2) Income from sources within this state includes
12 income from tangible or intangible property located in or
13 having a situs in this state and income from any activities
14 carried on in this state, regardless of whether carried on
15 in intrastate, interstate, or foreign commerce, but does not
16 include interest paid on loans held by out-of-state
17 financial institutions recognized as such in the state of
18 their domicile, secured by mortgages, trust indentures, or
19 other security interests on real or personal property
20 located within the state, if the loan is originated by a
21 lender doing business in Montana and assigned out-of-state
22 and there is no activity conducted by the out-of-state
23 lender in Montana except periodic inspection of the
24 security.

25 (3) Pursuant to Article III, section 2, of the

1 Multistate Tax Compact, any corporation required to file a
2 return under this part and whose only activity in Montana
3 consists of making sales and which does not own or rent real
4 estate or tangible personal property within Montana and
5 whose annual gross volume of sales made in Montana does not
6 exceed \$100,000 may elect to pay a tax of 1/2 of 1% of
7 gross sales made in Montana during the taxable year. Such
8 tax shall be in lieu of the tax otherwise imposed under this
9 section. The gross volume of sales made in Montana during
10 the taxable year shall be determined according to Article
11 IV, sections 16 and 17, of the Multistate Tax Compact."

12 NEW SECTION. Section 6. Extension of authority. Any
13 existing authority of the department of revenue to make
14 rules on the subject of the provisions of this act is
15 extended to the provisions of this act.

16 NEW SECTION. Section 7. Codification instruction.
17 Sections 1 and 2 are intended to be codified as an integral
18 part of Title 15, chapter 31, and the provisions of Title 15
19 apply to sections 1 and 2.

20 NEW SECTION. Section 8. Effective date. This act is
21 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB061, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

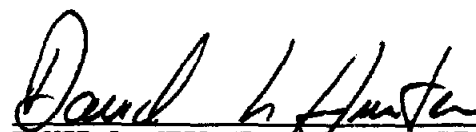
An Act providing for a one year exemption from corporation license and income taxes for new corporations; and providing an effective date.

ASSUMPTIONS:

1. There are an average of 920 new corporate tax filers each year. Based on the population of corporate tax returns, it is estimated that approximately half, or 460, of the new filers will earn a profit (2.3% of all returns). The remaining 460 returns will pay the minimum tax of \$50.
2. 2.3% of the net collections as calculated as follows are paid by the new, profitable corporations.

	<u>FY84</u>	<u>FY85</u>	<u>FY86</u>	<u>Average</u>
Total Collections	\$35,396,240	\$62,670,886	\$58,584,784	
Less: Top 50 Corporations (w/o Financials)	11,858,636	16,475,063	20,746,219	
Financial Institutions	4,114,096	6,664,610	7,049,703	
<u>Audit Collections</u>	<u>3,965,663</u>	<u>16,615,089</u>	<u>10,312,274</u>	
Net Collections	\$15,457,845	\$22,916,124	\$20,476,588	\$19,616,852

3. No corporations exempted under the proposal are financial institutions.
4. The proposal applies to incorporations after July 1, 1987 and will affect returns filed after that date.
5. It is assumed that the proposal is limited to incorporations of new businesses operating in the state for the first time (as opposed to reorganizations of existing businesses).
6. The Revenue Estimating Advisory Council's estimates of corporate tax receipts provide the basis for comparison. Collections will be \$53,063,000 in FY 88 and \$58,995,000 in FY 89.
7. The proposal prohibits the carryover of net operating losses from the first year. This will increase the corporation's tax in future years when it becomes profitable. The impact estimates ignore this effect because it is difficult to predict future profitability.

 DATE 1/12/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 1-12-87
 MIKE HALLIGAN, PRIMARY SPONSOR

Fiscal Note for SB061, as introduced.

FISCAL IMPACT:
Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Corporate Income Tax	\$53,063,000	\$52,588,812	(\$474,188)	\$58,995,000	\$58,520,812	(\$474,188)

Expenditure Impact:
 None

Fund Information:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
General Fund	\$30,816,000	\$30,512,520	(\$303,480)	\$34,262,000	\$33,958,520	(\$303,480)
Foundation Program	12,038,000	11,919,452	(118,548)	13,383,000	13,264,452	(118,548)
Long-Range Bond Fund	5,297,000	5,244,840	(52,160)	5,889,000	5,836,840	(52,160)
Local Governments	4,912,000	4,912,000	0	5,461,000	5,461,000	0
TOTALS	\$53,063,000	\$52,588,812	(\$474,188)	\$58,995,000	\$58,520,812	(\$474,188)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
 N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
 N/A

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