

SENATE BILL NO. 64
INTRODUCED BY HALLIGAN

IN THE SENATE

JANUARY 7, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

JANUARY 21, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 22, 1987 PRINTING REPORT.

JANUARY 24, 1987 SECOND READING, DO PASS AS AMENDED.

JANUARY 26, 1987 ENGROSSING REPORT.

JANUARY 27, 1987 THIRD READING, PASSED.
AYES, 49; NOES, 1.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

APRIL 6, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 9, 1987 SECOND READING, CONCURRED IN.

APRIL 10, 1987 THIRD READING, CONCURRED IN.
AYES, 91; NOES, 3.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 15, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 16, 1987

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 17, 1987

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 20, 1987

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 21, 1987

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1987

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 23, 1987

SENT TO ENROLLING.

1 *Senate* BILL NO. *64*
 2 INTRODUCED BY *Hallyan*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A 5-YEAR
 5 CORPORATION LICENSE TAX EXEMPTION FOR RESEARCH AND
 6 DEVELOPMENT FIRMS; CLASSIFYING ALL PROPERTY OWNED AND USED
 7 BY A RESEARCH AND DEVELOPMENT FIRM AS CLASS FOUR PROPERTY;
 8 AMENDING SECTIONS 15-1-101, 15-6-134, 15-6-142, 15-31-101,
 9 15-31-401, AND 15-31-403, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."

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

12 NEW SECTION. Section 1. Research and development
 13 firms exempt from taxation -- application. (1) A research
 14 and development firm organized to engage in business in the
 15 state of Montana is not subject to any of the taxes imposed
 16 by this chapter during its first 5 years of activity.

17 (2) (a) To be considered a research and development
 18 firm, the chief executive officer of the firm or his agent
 19 shall file with the department of revenue an application for
 20 treatment as a research and development firm.

21 (b) The application must be made on a form to be
 22 provided by the department. The form must include, at a
 23 minimum:

24 (i) the name and address of each officer of the
 25

1 research and development firm;

2 (ii) the name of the research and development firm as
 3 required for the purpose of incorporation in 35-1-202;

4 (iii) the address of its initial registered office
 5 required for the purpose of incorporation as required in
 6 35-1-202;

7 (iv) the date the articles of incorporation were filed
 8 with the secretary of state as required in 35-1-203; and

9 (v) other information the department requires to
 10 effectively administer the provisions of this section.

11 (c) The application must be filed with the department
 12 before the end of the first calendar quarter during which
 13 the research and development firm engages in business in
 14 Montana.

15 (3) On receipt of the information required in
 16 subsection (2)(b), provided that it was filed in the time
 17 allowed under subsection (2)(c), the department shall
 18 designate the applicant as a research and development firm
 19 for the purposes of this section.

20 (4) Failure by an applicant to provide information
 21 required by the department under subsection (2)(b) or,
 22 except as provided in subsection (5), failure to file within
 23 the time allowed under subsection (2)(c) automatically
 24 disqualifies the applicant from being designated and treated
 25 as a research and development firm for the purposes of this



1 section.

2 (5) The director of the department may grant an
3 extension of time for an applicant to file an application
4 for treatment as a research and development firm, provided
5 the extension is given in writing and the extension does not
6 extend beyond 30 days from the date the application was
7 required to be filed under subsection (2)(c).

8 (6) For the purpose of calculating or otherwise
9 determining the period for which a deduction, exclusion,
10 exemption, or credit may be taken under the provisions of
11 this chapter, the department shall disregard a research and
12 development firm's first 5 years of activity and administer
13 the deduction, exclusion, exemption, or credit as if the
14 corporation did not exist during that period. This treatment
15 of a research and development firm extends to net operating
16 loss carryback and net operating loss carryforward
17 provisions allowed under this chapter.

18 (7) For the purposes of this section, the 5-year
19 exemption period begins with the first calendar quarter
20 during which the research and development firm is engaged in
21 business and extends through the following 19 calendar
22 quarters.

23 Section 2. Section 15-1-101, MCA, is amended to read:

24 "15-1-101. Definitions. (1) Except as otherwise
25 specifically provided, when terms mentioned in this section

1 are used in connection with taxation, they are defined in
2 the following manner:

3 (a) The term "agricultural" refers to the raising of
4 livestock, poultry, bees, and other species of domestic
5 animals and wildlife in domestication or a captive
6 environment, and the raising of field crops, fruit, and
7 other animal and vegetable matter for food or fiber.

8 (b) The term "assessed value" means the value of
9 property as defined in 15-8-111.

10 (c) The term "average wholesale value" means the value
11 to a dealer prior to reconditioning and profit margin shown
12 in national appraisal guides and manuals or the valuation
13 schedules of the department of revenue.

14 (d) (i) The term "commercial", when used to describe
15 property, means any property used or owned by a business, a
16 trade, or a nonprofit corporation as defined in 35-2-102 or
17 used for the production of income, except that property
18 described in subsection (ii).

19 (ii) The following types of property are not
20 commercial:

21 (A) agricultural lands;

22 (B) timberlands;

23 (C) single-family residences and ancillary
24 improvements and improvements necessary to the function of a
25 bona fide farm, ranch, or stock operation;

1 (D) mobile homes used exclusively as a residence
2 except when held by a distributor or dealer of trailers or
3 mobile homes as his stock in trade;

4 (E) all property described in 15-6-135;

5 (F) all property described in 15-6-136; and

6 (G) all property described in 15-6-146.

7 (e) The term "comparable property" means property that
8 has similar use, function, and utility; that is influenced
9 by the same set of economic trends and physical,
10 governmental, and social factors; and that has the potential
11 of a similar highest and best use.

12 (f) The term "credit" means solvent debts, secured or
13 unsecured, owing to a person.

14 (g) The term "improvements" includes all buildings,
15 structures, fences, and improvements situated upon, erected
16 upon, or affixed to land. When the department of revenue or
17 its agent determines that the permanency of location of a
18 mobile home or housetrailer has been established, the mobile
19 home or housetrailer is presumed to be an improvement to
20 real property. A mobile home or housetrailer may be
21 determined to be permanently located only when it is
22 attached to a foundation which cannot feasibly be relocated
23 and only when the wheels are removed.

24 (h) The term "leasehold improvements" means
25 improvements to mobile homes and mobile homes located on

1 land owned by another person. This property is assessed
2 under the appropriate classification and the taxes are due
3 and payable in two payments as provided in 15-24-202.
4 Delinquent taxes on such leasehold improvements are a lien
5 only on such leasehold improvements.

6 (i) The term "livestock" means cattle, sheep, swine,
7 goats, horses, mules, and asses.

8 (j) The term "mobile home" means forms of housing
9 known as "trailers", "housetrailers", or "trailer coaches"
10 exceeding 8 feet in width or 45 feet in length, designed to
11 be moved from one place to another by an independent power
12 connected to them, or any "trailer", "housetrailer", or
13 "trailer coach" up to 8 feet in width or 45 feet in length
14 used as a principal residence.

15 (k) The term "personal property" includes everything
16 that is the subject of ownership but that is not included
17 within the meaning of the terms "real estate" and
18 "improvements".

19 (l) The term "poultry" includes all chickens, turkeys,
20 geese, ducks, and other birds raised in domestication to
21 produce food or feathers.

22 (m) The term "property" includes moneys, credits,
23 bonds, stocks, franchises, and all other matters and things,
24 real, personal, and mixed, capable of private ownership.
25 This definition must not be construed to authorize the

1 taxation of the stocks of any company or corporation when
2 the property of such company or corporation represented by
3 the stocks is within the state and has been taxed.

4 (n) The term "real estate" includes:

5 (i) the possession of, claim to, ownership of, or
6 right to the possession of land;

7 (ii) all mines, minerals, and quarries in and under the
8 land subject to the provisions of 15-23-501 and Title 15,
9 chapter 23, part 8; all timber belonging to individuals or
10 corporations growing or being on the lands of the United
11 States; and all rights and privileges appertaining thereto.

12 (o) "Research and development firm" means an entity
13 incorporated under the laws of this state whose principal
14 purpose is to engage in theoretical analysis, exploration,
15 and experimentation and the extension of investigative
16 findings and theories of a scientific and technical nature
17 into practical application for experimental and
18 demonstration purposes, including the experimental
19 production and testing of models, devices, equipment,
20 materials, and processes.

21 (p) The term "taxable value" means the percentage
22 of market or assessed value as provided for in 15-6-131
23 through 15-6-140.

24 (2) The phrase "municipal corporation" or
25 "municipality" or "taxing unit" shall be deemed to include a

1 county, city, incorporated town, township, school district,
2 irrigation district, drainage district, or any person,
3 persons, or organized body authorized by law to establish
4 tax levies for the purpose of raising public revenue.

5 (3) The term "state board" or "board" when used
6 without other qualification shall mean the state tax appeal
7 board."

8 Section 3. Section 15-6-134, MCA, is amended to read:
9 "15-6-134. Class four property -- description --
10 taxable percentage. (1) Class four property includes:

11 (a) all land except as provided in subsection (1)(e)
12 and that specifically included in another class;

13 (b) all improvements except as provided in subsection
14 (1)(e) and those specifically included in another class;

15 (c) the first \$35,000 or less of the market value of
16 any improvement on real property and appurtenant land not
17 exceeding 5 acres owned or under contract for deed and
18 actually occupied for at least 10 months a year as the
19 primary residential dwelling of any person whose total
20 income from all sources including otherwise tax-exempt
21 income of all types is not more than \$10,000 for a single
22 person or \$12,000 for a married couple;

23 (d) all golf courses, including land and improvements
24 actually and necessarily used for that purpose, that consist
25 of at least 9 holes and not less than 3,000 lineal yards;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501, property described in subsections (1)(a) and (1)(b) is taxed at the taxable percentage rate "P" 3.86% of its market value.

(b) Property described in subsection (1)(c) is taxed at the taxable percentage rate "P" 3.86% of its market value multiplied by a percentage figure based on income and determined from the following table:

| Income | | Income | | Percentage |
|----------------|-----------------|---------------|----------------|------------|
| Single Person | Married Couple | Single Person | Married Couple | Multiplier |
| \$0 - \$1,000 | \$0 - \$1,200 | | | 0% |
| 1,001 - 2,000 | 1,201 - 2,400 | | | 10% |
| 2,001 - 3,000 | 2,401 - 3,600 | | | 20% |
| 3,001 - 4,000 | 3,601 - 4,800 | | | 30% |
| 4,001 - 5,000 | 4,801 - 6,000 | | | 40% |
| 5,001 - 6,000 | 6,001 - 7,200 | | | 50% |
| 6,001 - 7,000 | 7,201 - 8,400 | | | 60% |
| 7,001 - 8,000 | 8,401 - 9,600 | | | 70% |
| 8,001 - 9,000 | 9,601 - 10,800 | | | 80% |
| 9,001 - 10,000 | 10,801 - 12,000 | | | 90% |

(c) Property described in subsection subsection (1)(d) and (1)(e) is taxed at one-half the taxable percentage rate "P" established in subsection (2)(a).

~~(3) -- Until January 17, 1986, the taxable percentage rate "P" for class four property is 8.55%.~~

~~(4) -- Prior to July 17, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class four property for the revaluation cycle beginning January 17, 1986, as follows:~~

~~(a) -- The director of the department of revenue shall certify to the governor before July 17, 1986, the percentage by which the appraised value of all property in the state classified under class four as of January 17, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the certified statewide percentage increase.~~

~~(b) -- The taxable value of property in class four is determined as a function of the certified statewide percentage increase in accordance with the table shown below:~~

~~(c) -- This table limits the statewide increase in taxable valuation resulting from reappraisal to 0% in calculating the percentage increase, the department may not consider changes resulting from new construction, additions, or deletions during calendar year 1985.~~

~~(d) -- The taxable percentage must be calculated by~~

1 interpolation--to--coincide--with--the--nearest-whole-number
 2 certified-statewide-percentage-increase-from--the--following
 3 table:

| 4 Certified-Statewide | Class-Four-Taxable |
|-----------------------|--------------------|
| 5 Percentage-Increase | Percentage-"P" |
| 6 0 | 8-55 |
| 7 10 | 7-77 |
| 8 20 | 7-12 |
| 9 30 | 6-57 |
| 10 40 | 6-10 |
| 11 50 | 5-70 |
| 12 60 | 5-34 |
| 13 70 | 5-02 |
| 14 80 | 4-75 |
| 15 90 | 4-50 |
| 16 100 | 4-27 |
| 17 110 | 4-07 |
| 18 120 | 3-88 |
| 19 130 | 3-71 |
| 20 140 | 3-56 |
| 21 150 | 3-42 |
| 22 160 | 3-28 |
| 23 170 | 3-16 |
| 24 180 | 3-05 |
| 25 190 | 2-94 |

| 1 Certified-Statewide | Class-Four-Taxable |
|-----------------------|--------------------|
| 2 Percentage-Increase | Percentage-"P" |
| 3 200 | 2-85 |
| 4 210 | 2-75 |
| 5 220 | 2-67 |
| 6 230 | 2-59 |
| 7 240 | 2-51 |
| 8 250 | 2-44 |
| 9 260 | 2-37 |
| 10 270 | 2-31 |
| 11 280 | 2-25 |
| 12 290 | 2-19 |
| 13 300 | 2-13 |

14 ~~(5)~~(3) After July 1, 1986, no adjustment may be made
 15 by the department to the taxable percentage rate "P"
 16 established in subsection (2)(a) until a revaluation has
 17 been made as provided in 15-7-111.

18 ~~(6)~~(4) Within the meaning of comparable property as
 19 defined in 15-1-101, property assessed as commercial
 20 property is comparable only to other property assessed as
 21 commercial property, and property assessed as other than
 22 commercial property is comparable only to other property
 23 assessed as other than commercial property."

24 Section 4. Section 15-6-142, MCA, is amended to read:
 25 "15-6-142. Class twelve property -- description --

1 taxable percentage. (1) Class twelve property includes:
 2 (a) a trailer or mobile home used as a residence
 3 except when:
 4 (i) held by a distributor or dealer of trailers or
 5 mobile homes as his stock in trade; or
 6 (ii) specifically included in another class;
 7 (b) the first \$35,000 or less of the market value of a
 8 trailer or mobile home used as a residence and actually
 9 occupied for at least 10 months a year as the primary
 10 residential dwelling of any person whose total income from
 11 all sources including otherwise tax-exempt income of all
 12 types is not more than \$10,000 for a single person or
 13 \$12,000 for a married couple.

14 (2) Class twelve property is taxed as follows:
 15 (a) Property described in subsection (1)(a) that is
 16 not of the type described in subsection (1)(b) is taxed at
 17 ~~the-taxable-percentage-rate--"P",--described--in--15-6-134,~~
 18 3.86% of its market value.
 19 (b) Property described in subsection (1)(b) is taxed
 20 ~~at the-taxable-percentage-rate-"P",--described--in--15-6-134,~~
 21 3.86% of its market value multiplied by a percentage figure
 22 based on income and determined from the table established in
 23 subsection (2)(b) of 15-6-134."
 24 Section 5. 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~~ Except as provided in [section 1] or 33-2-705(6),
 12 or as may be otherwise specifically provided, every
 13 corporation engaged in business in the state of Montana
 14 shall annually pay to the state treasurer as a license fee
 15 for the privilege of carrying on business in this state such
 16 percentage or percentages of its total net income for the
 17 preceding taxable year at the rate hereinafter set forth. In
 18 the case of corporations having income from business
 19 activity which is taxable both within and without this
 20 state, the license fee shall be measured by the net income
 21 derived from or attributable to Montana sources as
 22 determined under part 3. This tax is due and payable on the
 23 15th day of the 5th month following the close of the taxable
 24 year of the corporation; however, the tax becomes a lien as
 25 provided in this chapter on the last day of the taxable year

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

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

12 Section 6. Section 15-31-401, MCA, is amended to read:

13 "15-31-401. Application of license and income taxes.

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

21 (2) During its first 5 years of activity, a research
22 and development firm as described in [section 1] is not
23 subject to either the corporation license tax provided in
24 part 1 of this chapter or to the corporation income tax
25 provided in this part."

1 Section 7. Section 15-31-403, MCA, is amended to read:

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

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

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

13 NEW SECTION. Section 8. Extension of authority. Any
14 existing authority of the department of revenue to make
15 rules on the subject of the provisions of this act is
16 extended to the provisions of this act.

17 NEW SECTION. Section 9. Codification instruction.
18 Section 1 is intended to be codified as an integral part of
19 Title 15, chapter 31, and the provisions of Title 15 apply
20 to section 1.

21 NEW SECTION. Section 10. Effective date. This act is
22 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 SB064, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for a 5-year corporation license tax exemption for research and development firms; classifying all property owned and used by a research and development firm as Class 4 property; and providing an effective date.

ASSUMPTIONS:

The revenue impact of this bill is assumed to be minimal in the upcoming biennium. Administrative personnel in the Montana Science and Technology Alliance, Montana Department of Commerce indicate that there are at present only one or two firms in the state that could conceivably be classified as R & D firms. These firms may not fit the description of R & D firms stated in the bill because it is doubtful that the primary activity of these firms is purely research. The reclassification of personal property to Class 4 property is also felt to have a minimal impact on revenues.

Furthermore, if a new R & D firm(s) were to come into existence in the coming biennium the impact on corporation license tax revenue would be minimal as firms generally operate at a loss for the first few years of operation. Also, the addition to the property tax base of a new R & D firm is likely to be very small resulting in a minimal impact on property tax revenues.

FISCAL IMPACT:

N/A

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

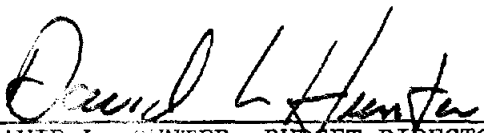
N/A


LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

 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 SB064, as introduced.

APPROVED BY COMMITTEE
ON TAXATION

1 SENATE BILL NO. 64
 2 INTRODUCED BY HALLIGAN
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A 5-YEAR
 5 CORPORATION LICENSE TAX EXEMPTION FOR RESEARCH AND
 6 DEVELOPMENT FIRMS; CLASSIFYING ALL PROPERTY OWNED AND USED
 7 BY A RESEARCH AND DEVELOPMENT FIRM AS CLASS FOUR FIVE
 8 PROPERTY; AMENDING SECTIONS 15-1-101, 15-6-134, 15-6-142
 9 15-6-135, 15-31-101, 15-31-401, AND 15-31-403, MCA; AND
 10 PROVIDING AN EFFECTIVE DATE."

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

12 NEW SECTION. Section 1. Research and development
 13 firms exempt from taxation -- application. (1) A research
 14 and development firm organized to engage in business in the
 15 state of Montana FOR THE FIRST TIME is not subject to any of
 16 the taxes imposed by this chapter ON NET INCOME EARNED FROM
 17 RESEARCH AND DEVELOPMENT ACTIVITIES during its first 5
 18 TAXABLE years of activity IN MONTANA. FOR PURPOSES OF [THIS
 19 ACT], "TAXABLE YEAR" MEANS A RESEARCH AND DEVELOPMENT FIRM'S
 20 TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES.

21 (2) (a) To be considered a research and development
 22 firm, the chief executive officer of the firm or his agent
 23 shall file with the department of revenue an application for
 24 treatment as a research and development firm.
 25

1 (b) The application must be made on a form to be
 2 provided by the department. The form must include, at a
 3 minimum:

4 (i) the name and address of each officer of the
 5 research and development firm;

6 (ii) the name of the research and development firm as
 7 required for the purpose of incorporation in 35-1-202;

8 (iii) the address of its initial registered office
 9 required for the purpose of incorporation as required in
 10 35-1-202;

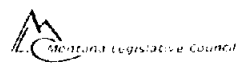
11 (iv) the date the articles of incorporation were filed
 12 with the secretary of state as required in 35-1-203; and

13 (v) other information the department requires to
 14 effectively administer the provisions of this section.

15 (c) The application must be filed with the department
 16 before the end of the first calendar quarter during which
 17 the research and development firm engages in business in
 18 Montana.

19 (3) On receipt of the information required in
 20 subsection (2)(b), provided that it was filed in the time
 21 allowed under subsection (2)(c), the department shall
 22 designate the applicant as a research and development firm
 23 for the purposes of this section.

24 (4) Failure by an applicant to provide information
 25 required by the department under subsection (2)(b) or,



1 except as provided in subsection (5), failure to file within
 2 the time allowed under subsection (2)(c) automatically
 3 disqualifies the applicant from being designated and treated
 4 as a research and development firm for the purposes of this
 5 section.

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

12 (6) For the purpose of calculating or otherwise
 13 determining the period for which a deduction, exclusion,
 14 exemption, or credit may be taken under the provisions of
 15 this chapter, the department shall disregard a research and
 16 development firm's first 5 TAXABLE years of activity IN
 17 MONTANA and administer the deduction, exclusion, exemption,
 18 or credit as if the corporation did not exist during that
 19 period THOSE TAXABLE YEARS. This treatment of a research and
 20 development firm extends to net operating loss carryback and
 21 net operating loss carryforward provisions allowed under
 22 this chapter.

23 ~~{7}--For--the--purposes--of--this--section,--the--5--year~~
 24 ~~exemption-period-begins--with--the--first--calendar--quarter~~
 25 ~~during-which-the-research-and-development-firm-is-engaged-in~~

1 ~~business--and--extends--through--the--following--19--calendar~~
 2 ~~quarters:~~

3 Section 2. Section 15-1-101, MCA, is amended to read:
 4 "15-1-101. Definitions. (1) Except as otherwise
 5 specifically provided, when terms mentioned in this section
 6 are used in connection with taxation, they are defined in
 7 the following manner:

8 (a) The term "agricultural" refers to the raising of
 9 livestock, poultry, bees, and other species of domestic
 10 animals and wildlife in domestication or a captive
 11 environment, and the raising of field crops, fruit, and
 12 other animal and vegetable matter for food or fiber.

13 (b) The term "assessed value" means the value of
 14 property as defined in 15-8-111.

15 (c) The term "average wholesale value" means the value
 16 to a dealer prior to reconditioning and profit margin shown
 17 in national appraisal guides and manuals or the valuation
 18 schedules of the department of revenue.

19 (d) (i) The term "commercial", when used to describe
 20 property, means any property used or owned by a business, a
 21 trade, or a nonprofit corporation as defined in 35-2-102 or
 22 used for the production of income, except that property
 23 described in subsection (ii).

24 (ii) The following types of property are not
 25 commercial:

1 (A) agricultural lands;
 2 (B) timberlands;
 3 (C) single-family residences and ancillary
 4 improvements and improvements necessary to the function of a
 5 bona fide farm, ranch, or stock operation;
 6 (D) mobile homes used exclusively as a residence
 7 except when held by a distributor or dealer of trailers or
 8 mobile homes as his stock in trade;
 9 (E) all property described in 15-6-135;
 10 (F) all property described in 15-6-136; and
 11 (G) all property described in 15-6-146.
 12 (e) The term "comparable property" means property that
 13 has similar use, function, and utility; that is influenced
 14 by the same set of economic trends and physical,
 15 governmental, and social factors; and that has the potential
 16 of a similar highest and best use.
 17 (f) The term "credit" means solvent debts, secured or
 18 unsecured, owing to a person.
 19 (g) The term "improvements" includes all buildings,
 20 structures, fences, and improvements situated upon, erected
 21 upon, or affixed to land. When the department of revenue or
 22 its agent determines that the permanency of location of a
 23 mobile home or housetrailer has been established, the mobile
 24 home or housetrailer is presumed to be an improvement to
 25 real property. A mobile home or housetrailer may be

1 determined to be permanently located only when it is
 2 attached to a foundation which cannot feasibly be relocated
 3 and only when the wheels are removed.

4 (h) The term "leasehold improvements" means
 5 improvements to mobile homes and mobile homes located on
 6 land owned by another person. This property is assessed
 7 under the appropriate classification and the taxes are due
 8 and payable in two payments as provided in 15-24-202.
 9 Delinquent taxes on such leasehold improvements are a lien
 10 only on such leasehold improvements.

11 (i) The term "livestock" means cattle, sheep, swine,
 12 goats, horses, mules, and asses.

13 (j) The term "mobile home" means forms of housing
 14 known as "trailers", "housetrailers", or "trailer coaches"
 15 exceeding 8 feet in width or 45 feet in length, designed to
 16 be moved from one place to another by an independent power
 17 connected to them, or any "trailer", "housetrailer", or
 18 "trailer coach" up to 8 feet in width or 45 feet in length
 19 used as a principal residence.

20 (k) The term "personal property" includes everything
 21 that is the subject of ownership but that is not included
 22 within the meaning of the terms "real estate" and
 23 "improvements".

24 (l) The term "poultry" includes all chickens, turkeys,
 25 geese, ducks, and other birds raised in domestication to

1 produce food or feathers.

2 (m) The term "property" includes moneys, credits,
3 bonds, stocks, franchises, and all other matters and things,
4 real, personal, and mixed, capable of private ownership.
5 This definition must not be construed to authorize the
6 taxation of the stocks of any company or corporation when
7 the property of such company or corporation represented by
8 the stocks is within the state and has been taxed.

9 (n) The term "real estate" includes:

10 (i) the possession of, claim to, ownership of, or
11 right to the possession of land;

12 (ii) all mines, minerals, and quarries in and under the
13 land subject to the provisions of 15-23-501 and Title 15,
14 chapter 23, part 8; all timber belonging to individuals or
15 corporations growing or being on the lands of the United
16 States; and all rights and privileges appertaining thereto.

17 (o) "Research and development firm" means an entity
18 incorporated under the laws of this state whose principal
19 purpose is to engage in theoretical analysis, exploration,
20 and experimentation and the extension of investigative
21 findings and theories of a scientific and technical nature
22 into practical application for experimental and
23 demonstration purposes, including the experimental
24 production and testing of models, devices, equipment,
25 materials, and processes.

1 ~~(o)(p)~~ The term "taxable value" means the percentage
2 of market or assessed value as provided for in 15-6-131
3 through 15-6-140.

4 (2) The phrase "municipal corporation" or
5 "municipality" or "taxing unit" shall be deemed to include a
6 county, city, incorporated town, township, school district,
7 irrigation district, drainage district, or any person,
8 persons, or organized body authorized by law to establish
9 tax levies for the purpose of raising public revenue.

10 (3) The term "state board" or "board" when used
11 without other qualification shall mean the state tax appeal
12 board."

13 ~~Section 37--Section--15-6-134, MCA, is amended to read:~~

14 ~~"15-6-134. Class four property-----description-----~~
15 ~~taxable percentage--(i) Class four property includes:~~

16 ~~(a)--all--land--except as provided in subsection (i)(e)~~
17 ~~and that specifically included in another class;~~

18 ~~(b)--all improvements except as provided in subsection~~
19 ~~(i)(e) and those specifically included in another class;~~

20 ~~(c)--the--first--\$35,000--or--less--of--the--market--value--of~~
21 ~~any improvement on real property and appurtenant land not~~
22 ~~exceeding 5 acres owned or under contract for deed and~~
23 ~~actually occupied for at least 10 months a year as the~~
24 ~~primary residential dwelling of any person whose total~~
25 ~~income from all sources including otherwise tax exempt~~

1 income--of--all--types-is-not-more-than-\$10,000-for-a-single
2 person-or-\$12,000-for-a-married-couple;

3 (d)--all-golf-courses,including-land-and--improvements
4 actually-and-necessarily-used-for-that-purpose,that-consist
5 of--at--least-9-holes-and-not-less-than-3,000-linear-yards;

6 (e)--all-land-and--improvements--and--all--personal
7 property--owned-by-a-research-and-development-firm,provided
8 that-the-property--is--actively--devoted--to--research--and
9 development;

10 (2)--Class-four-property-is-taxed-as-follows:

11 (a)--Except--as--provided--in-15-24-1402-or-15-24-1501,
12 property-described-in-subsections-(1)(a)-and-(1)(b)-is-taxed
13 at-the-taxable-percentage--rate--"P" 3.86% of--its--market
14 value;

15 (b)--Property--described--in-subsection-(1)(c)-is-taxed
16 at-the-taxable-percentage-rate--"P" 3.86% of-its-market-value
17 multiplied-by--a--percentage--figure--based--on--income--and
18 determined-from-the-following-table:

| Income | | Percentage |
|------------------|------------------|------------|
| Single-Person | Married-Couple | Multiplier |
| -\$0-----\$1,000 | -\$0-----\$1,200 | 0% |
| 1,001-----2,000 | 1,201-----2,400 | 10% |
| 2,001-----3,000 | 2,401-----3,600 | 20% |
| 3,001-----4,000 | 3,601-----4,800 | 30% |
| 4,001-----5,000 | 4,801-----6,000 | 40% |

| | | | |
|---|------------------|-------------------|-----|
| 1 | 5,001-----6,000 | 6,001-----7,200 | 50% |
| 2 | 6,001-----7,000 | 7,201-----8,400 | 60% |
| 3 | 7,001-----8,000 | 8,401-----9,600 | 70% |
| 4 | 8,001-----9,000 | 9,601-----10,800 | 80% |
| 5 | 9,001-----10,000 | 10,801-----12,000 | 90% |

6 (c)--Property--described--in--subsection subsections
7 (1)(d) and--(1)(e) is--taxed--at--one-half--the--taxable
8 percentage-rate--"P"--established-in-subsection-(2)(a);

9 (3)--Until-January-17-1986, the-taxable-percentage-rate
10 "P" for-class-four-property-is-0.55%;

11 (4)--Prior--to--July-17-1986, the-department-of-revenue
12 shall-determine-the-taxable-percentage-rate--"P"--applicable
13 to--class--four-property-for-the-valuation-cycle-beginning
14 January-17-1986, as-follows:

15 (a)--The-director-of-the-department--of--revenue--shall
16 certify--to-the-governor-before-July-17-1986, the-percentage
17 by-which-the-appraised-value-of-all-property--in--the--state
18 classified--under--class--four--as-of-January-17-1986, has
19 increased-due-to-the-valuation-conducted--under--15-7-111.
20 This-figure-is-the-certified-statewide-percentage-increase;

21 (b)--The-taxable-value-of-property--in--class--four--is
22 determined--as--a--function--of--the-certified--statewide
23 percentage-increase--in--accordance--with--the--table--shown
24 below:

25 (c)--This--table--limits--the--statewide--increase--in

1 taxable-valuation--resulting--from--reappraisal--to--0%--in
 2 calculating--the--percentage--increase,--the--department--may--not
 3 consider--changes--resulting--from--new--construction,--additions,
 4 or--deletions--during--calendar--year--1985.

5 (d)--The--taxable--percentage--must--be--calculated--by
 6 interpolation--to--coincide--with--the--nearest--whole--number
 7 certified--statewide--percentage--increase--from--the--following
 8 table:

| 9 Certified-Statewide | Class-Four-Taxable |
|------------------------|--------------------|
| 10 Percentage-Increase | Percentage-"P" |
| 11 0 | 8-55 |
| 12 10 | 7-77 |
| 13 20 | 7-12 |
| 14 30 | 6-57 |
| 15 40 | 6-10 |
| 16 50 | 5-70 |
| 17 60 | 5-34 |
| 18 70 | 5-02 |
| 19 80 | 4-75 |
| 20 90 | 4-50 |
| 21 100 | 4-27 |
| 22 110 | 4-07 |
| 23 120 | 3-88 |
| 24 130 | 3-71 |
| 25 140 | 3-56 |

| 1 Certified-Statewide | Class-Four-Taxable |
|-----------------------|--------------------|
| 2 Percentage-Increase | Percentage-"P" |
| 3 150 | 3-42 |
| 4 160 | 3-28 |
| 5 170 | 3-16 |
| 6 180 | 3-05 |
| 7 190 | 2-94 |
| 8 200 | 2-85 |
| 9 210 | 2-75 |
| 10 220 | 2-67 |
| 11 230 | 2-59 |
| 12 240 | 2-51 |
| 13 250 | 2-44 |
| 14 260 | 2-37 |
| 15 270 | 2-31 |
| 16 280 | 2-25 |
| 17 290 | 2-19 |
| 18 300 | 2-13 |

19 (5)(3)--After--July--17--1986,--no--adjustment--may--be--made
 20 by--the--department--to--the--taxable--percentage--rate--"P"
 21 established--in--subsection--(2)(a) until--a--revaluation--has
 22 been--made--as--provided--in--15-7-111.

23 (6)(4)--Within--the--meaning--of--comparable--property--as
 24 defined--in--15-1-101,--property--assessed--as--commercial
 25 property--is--comparable--only--to--other--property--assessed--as

1 commercial property, and property assessed as other than
2 commercial property is comparable only to other property
3 assessed as other than commercial property."

4 Section 4, Section 15-6-142, MCA, is amended to read:

5 "15-6-142. Class twelve property -- description --
6 taxable percentage. (1) Class twelve property includes:

7 (a) a trailer or mobile home used as a residence
8 except when:

9 (i) held by a distributor or dealer of trailers or
10 mobile homes as his stock in trade; or

11 (ii) specifically included in another class;

12 (b) the first \$35,000 or less of the market value of a
13 trailer or mobile home used as a residence and actually
14 occupied for at least 10 months a year as the primary
15 residential dwelling of any person whose total income from
16 all sources including otherwise tax exempt income of all
17 types is not more than \$10,000 for a single person or
18 \$12,000 for a married couple.

19 (2) Class twelve property is taxed as follows:

20 (a) Property described in subsection (1)(a) that is
21 not of the type described in subsection (1)(b) is taxed at
22 the taxable percentage rate "P", described in 15-6-134,
23 3.06% of its market value;

24 (b) Property described in subsection (1)(b) is taxed
25 at the taxable percentage rate "P", described in 15-6-134,

1 ~~3.06%~~ of its market value multiplied by a percentage figure
2 based on income and determined from the table established in
3 subsection (2)(b) of 15-6-134."

4 SECTION 3. SECTION 15-6-135, MCA, IS AMENDED TO READ:

5 "15-6-135. Class five property -- description --
6 taxable percentage. (1) Class five property includes:

7 (a) all property used and owned by cooperative rural
8 electrical and cooperative rural telephone associations
9 organized under the laws of Montana, except property owned
10 by cooperative organizations described in subsection (1)(c)
11 of 15-6-137;

12 (b) air and water pollution control equipment as
13 defined in this section;

14 (c) new industrial property as defined in this
15 section;

16 (d) any personal or real property used primarily in
17 the production of gasohol during construction and for the
18 first 3 years of its operation;

19 (e) all land and improvements and all personal
20 property owned by a research and development firm, provided
21 that the property is actively devoted to research and
22 development.

23 (2) (a) "Air and water pollution equipment" means
24 facilities, machinery, or equipment used to reduce or
25 control water or atmospheric pollution or contamination by

1 removing, reducing, altering, disposing, or storing
2 pollutants, contaminants, wastes, or heat. The department of
3 health and environmental sciences shall determine if such
4 utilization is being made.

5 (b) The department of health and environmental
6 sciences' determination as to air and water pollution
7 equipment may be appealed to the board of health and
8 environmental sciences and may not be appealed to either a
9 county tax appeal board or the state tax appeal board.
10 However, the appraised value of the equipment as determined
11 by the department of revenue may be appealed to the county
12 tax appeal board and the state tax appeal board.

13 (3) "New industrial property" means any new industrial
14 plant, including land, buildings, machinery, and fixtures,
15 used by new industries during the first 3 years of their
16 operation. The property may not have been assessed within
17 the state of Montana prior to July 1, 1961.

18 (4) (a) "New industry" means any person, corporation,
19 firm, partnership, association, or other group that
20 establishes a new plant in Montana for the operation of a
21 new industrial endeavor, as distinguished from a mere
22 expansion, reorganization, or merger of an existing
23 industry.

24 (b) New industry includes only those industries that:
25 (i) manufacture, mill, mine, produce, process, or

1 fabricate materials;

2 (ii) do similar work, employing capital and labor, in
3 which materials unserviceable in their natural state are
4 extracted, processed, or made fit for use or are
5 substantially altered or treated so as to create commercial
6 products or materials; or

7 (iii) engage in the mechanical or chemical
8 transformation of materials or substances into new products
9 in the manner defined as manufacturing in the 1972 Standard
10 Industrial Classification Manual prepared by the United
11 States office of management and budget.

12 (5) New industrial property does not include:

13 (a) property used by retail or wholesale merchants,
14 commercial services of any type, agriculture, trades, or
15 professions;

16 (b) a plant that will create adverse impact on
17 existing state, county, or municipal services; or

18 (c) property used or employed in any industrial plant
19 that has been in operation in this state for 3 years or
20 longer.

21 (6) Class five property is taxed at 3% of its market
22 value."

23 Section 4. Section 15-31-101, MCA, is amended to read:

24 "15-31-101. Organizations subject to tax. (1) The term
25 "corporation" includes associations, joint-stock companies,

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

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

9 (3) ~~Every--corporation--except--as--hereinafter--provided~~
 10 ~~and--except~~ Except as provided in [section 1] or 33-2-705(6),
 11 or as may be otherwise specifically provided, every
 12 corporation engaged in business in the state of Montana
 13 shall annually pay to the state treasurer as a license fee
 14 for the privilege of carrying on business in this state such
 15 percentage or percentages of its total net income for the
 16 preceding taxable year at the rate hereinafter set forth. In
 17 the case of corporations having income from business
 18 activity which is taxable both within and without this
 19 state, the license fee shall be measured by the net income
 20 derived from or attributable to Montana sources as
 21 determined under part 3. This tax is due and payable on the
 22 15th day of the 5th month following the close of the taxable
 23 year of the corporation; however, the tax becomes a lien as
 24 provided in this chapter on the last day of the taxable year
 25 in which the income was earned and is for the privilege of

1 carrying on business in this state for the taxable year in
 2 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 5. 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 corporation
 14 license tax shall be applied to all corporations subject to
 15 taxation under part 1 of this chapter. The Except as
 16 provided in subsection (2), the income tax provided by this
 17 part shall be applied to corporations that are not taxable
 18 under part 1 of this chapter but are taxable under an income
 19 tax.

20 (2) During its first 5 TAXABLE years of activity IN
 21 MONTANA, THE NET INCOME EARNED FROM RESEARCH AND DEVELOPMENT
 22 ACTIVITIES BY a research and development firm as described
 23 in [section 1] is not subject to either the corporation
 24 license tax provided in part 1 of this chapter or to the
 25 corporation income tax provided in this part."

1 Section 6. Section 15-31-403, MCA, is amended to read:

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

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

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

13 NEW SECTION. Section 7. Extension of authority. Any
14 existing authority of the department of revenue to make
15 rules on the subject of the provisions of this act is
16 extended to the provisions of this act.

17 NEW SECTION. Section 8. Codification instruction.
18 Section 1 is intended to be codified as an integral part of
19 Title 15, chapter 31, and the provisions of Title 15 apply
20 to section 1.

21 NEW SECTION. Section 9. Effective date. This act is
22 effective July 1, 1987.

-End-

1 SENATE BILL NO. 64
2 INTRODUCED BY HALLIGAN
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A 5-YEAR
5 CORPORATION LICENSE TAX EXEMPTION FOR RESEARCH AND
6 DEVELOPMENT FIRMS; CLASSIFYING ALL PROPERTY OWNED AND USED
7 BY A RESEARCH AND DEVELOPMENT FIRM AS CLASS FOUR FIVE
8 PROPERTY; AMENDING SECTIONS 15-1-101, 15-6-134,--15-6-142
9 15-6-135, 15-31-101, 15-31-401, AND 15-31-403, MCA; AND
10 PROVIDING AN EFFECTIVE DATE."

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

13 NEW SECTION. Section 1. Research and development
14 firms exempt from taxation -- application. (1) A research
15 and development firm organized to engage in business in the
16 state of Montana FOR THE FIRST TIME is not subject to any of
17 the taxes imposed by this chapter ON NET INCOME EARNED FROM
18 RESEARCH AND DEVELOPMENT ACTIVITIES during its first 5
19 TAXABLE years of activity IN MONTANA. FOR PURPOSES OF [THIS
20 ACT], "TAXABLE YEAR" MEANS A RESEARCH AND DEVELOPMENT FIRM'S
21 TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES.

22 (2) (a) To be considered a research and development
23 firm, the chief executive officer of the firm or his agent
24 shall file with the department of revenue an application for
25 treatment as a research and development firm.

1 (b) The application must be made on a form to be
2 provided by the department. The form must include, at a
3 minimum:

4 (i) the name and address of each officer of the
5 research and development firm;

6 (ii) the name of the research and development firm as
7 required for the purpose of incorporation in 35-1-202;

8 (iii) the address of its initial registered office
9 required for the purpose of incorporation as required in
10 35-1-202;

11 (iv) the date the articles of incorporation were filed
12 with the secretary of state as required in 35-1-203; and

13 (v) other information the department requires to
14 effectively administer the provisions of this section.

15 (c) The application must be filed with the department
16 before the end of the first calendar quarter during which
17 the research and development firm engages in business in
18 Montana.

19 (3) On receipt of the information required in
20 subsection (2)(b), provided that it was filed in the time
21 allowed under subsection (2)(c), the department shall
22 designate the applicant as a research and development firm
23 for the purposes of this section.

24 (4) Failure by an applicant to provide information
25 required by the department under subsection (2)(b) or,

THIRD READING

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1 except as provided in subsection (5), failure to file within
 2 the time allowed under subsection (2)(c) automatically
 3 disqualifies the applicant from being designated and treated
 4 as a research and development firm for the purposes of this
 5 section.

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

12 (6) For the purpose of calculating or otherwise
 13 determining the period for which a deduction, exclusion,
 14 exemption, or credit may be taken under the provisions of
 15 this chapter, the department shall disregard a research and
 16 development firm's first 5 TAXABLE years of activity IN
 17 MONTANA and administer the deduction, exclusion, exemption,
 18 or credit as if the corporation did not exist during that
 19 period THOSE TAXABLE YEARS. This treatment of a research and
 20 development firm extends to net operating loss carryback and
 21 net operating loss carryforward provisions allowed under
 22 this chapter.

23 ~~{7}--For--the--purposes--of--this--section,--the--5--year~~
 24 ~~exemption-period-begins--with--the--first--calendar--quarter~~
 25 ~~during-which-the-research-and-development-firm-is-engaged-in~~

1 ~~business--and--extends--through--the--following--19--calendar~~
 2 ~~quarters:~~

3 Section 2. Section 15-1-101, MCA, is amended to read:

4 "15-1-101. Definitions. (1) Except as otherwise
 5 specifically provided, when terms mentioned in this section
 6 are used in connection with taxation, they are defined in
 7 the following manner:

8 (a) The term "agricultural" refers to the raising of
 9 livestock, poultry, bees, and other species of domestic
 10 animals and wildlife in domestication or a captive
 11 environment, and the raising of field crops, fruit, and
 12 other animal and vegetable matter for food or fiber.

13 (b) The term "assessed value" means the value of
 14 property as defined in 15-8-111.

15 (c) The term "average wholesale value" means the value
 16 to a dealer prior to reconditioning and profit margin shown
 17 in national appraisal guides and manuals or the valuation
 18 schedules of the department of revenue.

19 (d) (i) The term "commercial", when used to describe
 20 property, means any property used or owned by a business, a
 21 trade, or a nonprofit corporation as defined in 35-2-102 or
 22 used for the production of income, except that property
 23 described in subsection (ii).

24 (ii) The following types of property are not
 25 commercial:

1 (A) agricultural lands;
 2 (B) timberlands;
 3 (C) single-family residences and ancillary
 4 improvements and improvements necessary to the function of a
 5 bona fide farm, ranch, or stock operation;
 6 (D) mobile homes used exclusively as a residence
 7 except when held by a distributor or dealer of trailers or
 8 mobile homes as his stock in trade;
 9 (E) all property described in 15-6-135;
 10 (F) all property described in 15-6-136; and
 11 (G) all property described in 15-6-146.
 12 (e) The term "comparable property" means property that
 13 has similar use, function, and utility; that is influenced
 14 by the same set of economic trends and physical,
 15 governmental, and social factors; and that has the potential
 16 of a similar highest and best use.
 17 (f) The term "credit" means solvent debts, secured or
 18 unsecured, owing to a person.
 19 (g) The term "improvements" includes all buildings,
 20 structures, fences, and improvements situated upon, erected
 21 upon, or affixed to land. When the department of revenue or
 22 its agent determines that the permanency of location of a
 23 mobile home or housetrailer has been established, the mobile
 24 home or housetrailer is presumed to be an improvement to
 25 real property. A mobile home or housetrailer may be

1 determined to be permanently located only when it is
 2 attached to a foundation which cannot feasibly be relocated
 3 and only when the wheels are removed.

4 (h) The term "leasehold improvements" means
 5 improvements to mobile homes and mobile homes located on
 6 land owned by another person. This property is assessed
 7 under the appropriate classification and the taxes are due
 8 and payable in two payments as provided in 15-24-202.
 9 Delinquent taxes on such leasehold improvements are a lien
 10 only on such leasehold improvements.

11 (i) The term "livestock" means cattle, sheep, swine,
 12 goats, horses, mules, and asses.

13 (j) The term "mobile home" means forms of housing
 14 known as "trailers", "housetrailers", or "trailer coaches"
 15 exceeding 8 feet in width or 45 feet in length, designed to
 16 be moved from one place to another by an independent power
 17 connected to them, or any "trailer", "housetrailer", or
 18 "trailer coach" up to 8 feet in width or 45 feet in length
 19 used as a principal residence.

20 (k) The term "personal property" includes everything
 21 that is the subject of ownership but that is not included
 22 within the meaning of the terms "real estate" and
 23 "improvements".

24 (l) The term "poultry" includes all chickens, turkeys,
 25 geese, ducks, and other birds raised in domestication to

1 produce food or feathers.

2 (m) The term "property" includes moneys, credits,
3 bonds, stocks, franchises, and all other matters and things,
4 real, personal, and mixed, capable of private ownership.
5 This definition must not be construed to authorize the
6 taxation of the stocks of any company or corporation when
7 the property of such company or corporation represented by
8 the stocks is within the state and has been taxed.

9 (n) The term "real estate" includes:

10 (i) the possession of, claim to, ownership of, or
11 right to the possession of land;

12 (ii) all mines, minerals, and quarries in and under the
13 land subject to the provisions of 15-23-501 and Title 15,
14 chapter 23, part 8; all timber belonging to individuals or
15 corporations growing or being on the lands of the United
16 States; and all rights and privileges appertaining thereto.

17 (o) "Research and development firm" means an entity
18 incorporated under the laws of this state OR A FOREIGN
19 CORPORATION AUTHORIZED TO DO BUSINESS IN THIS STATE whose
20 principal purpose is to engage in theoretical analysis,
21 exploration, and experimentation and the extension of
22 investigative findings and theories of a scientific and
23 technical nature into practical application for experimental
24 and demonstration purposes, including the experimental
25 production and testing of models, devices, equipment,

1 materials, and processes.

2 ~~(o)(p)~~ The term "taxable value" means the percentage
3 of market or assessed value as provided for in 15-6-131
4 through 15-6-140.

5 (2) The phrase "municipal corporation" or
6 "municipality" or "taxing unit" shall be deemed to include a
7 county, city, incorporated town, township, school district,
8 irrigation district, drainage district, or any person,
9 persons, or organized body authorized by law to establish
10 tax levies for the purpose of raising public revenue.

11 (3) The term "state board" or "board" when used
12 without other qualification shall mean the state tax appeal
13 board."

14 ~~Section 3,--Section 15-6-134, MCA, is amended to read:~~

15 ~~"15-6-134,--Class--four--property-----description-----~~
16 ~~taxable-percentage--(1)--Class-four-property--includes:~~

17 ~~(a)--all--land--except as-provided-in-subsection-(1)(e)~~
18 ~~and that-specifically-included-in-another-class;~~

19 ~~(b)--all-improvements-except as-provided-in-subsection~~
20 ~~(1)(e)-and those-specifically-included-in-another-class;~~

21 ~~(c)--the--first--\$35,000-or-less-of-the-market-value-of~~
22 ~~any-improvement-on-real-property-and-appurtenant--land--not~~
23 ~~exceeding--5--acres--owned--or--under--contract-for-deed-and~~
24 ~~actually-occupied-for-at-least--10--months--a--year--as--the~~
25 ~~primary--residential--dwelling--of--any--person--whose-total~~

1 income--from--all--sources--including--otherwise--tax-exempt
2 income--of--all--types--is--not--more--than--\$10,000--for--a--single
3 person--or--\$12,000--for--a--married--couple;

4 (d)--all--golf--courses,--including--land--and--improvements
5 actually--and--necessarily--used--for--that--purpose,--that--consist
6 of--at--least--9--holes--and--not--less--than--3,000--linear--yards;

7 (e)--all--land--and--improvements--and--all--personal
8 property--owned--by--a--research--and--development--firm,--provided
9 that--the--property--is--actively--devoted--to--research--and
10 development;

11 (2)--Class--four--property--is--taxed--as--follows:

12 (a)--Except--as--provided--in--15-24-1402--or--15-24-1501,
13 property--described--in--subsections--(1)(a)--and--(1)(b)--is--taxed
14 at--the--taxable--percentage--rate--"P" 3.86% of--its--market
15 value;

16 (b)--Property--described--in--subsection--(1)(c)--is--taxed
17 at--the--taxable--percentage--rate--"P" 3.86% of--its--market--value
18 multiplied--by--a--percentage--figure--based--on--income--and
19 determined--from--the--following--table:

| Income | Income | Percentage |
|-------------------|-------------------|------------|
| Single-Person | Married-Couple | Multiplier |
| \$0-----\$17,000 | \$0-----\$17,200 | 0% |
| 17,001-----27,000 | 17,201-----27,400 | 10% |
| 27,001-----37,000 | 27,401-----37,600 | 20% |
| 37,001-----47,000 | 37,601-----47,800 | 30% |

| | | |
|--------------------|-------------------|-----|
| 1 47001-----57000 | 47801-----67800 | 40% |
| 2 57001-----67000 | 67801-----77200 | 50% |
| 3 67001-----77000 | 77201-----87400 | 60% |
| 4 77001-----87000 | 87401-----97600 | 70% |
| 5 87001-----97000 | 97601-----107800 | 80% |
| 6 97001-----107000 | 107801-----127800 | 90% |

7 (c)--Property--described--in--subsection subsections
8 (1)(d) and--(1)(e) is--taxed--at--one--half--the--taxable
9 percentage--rate--"P"--established--in--subsection--(2)(a);

10 (3)--Until--January--17--1986,--the--taxable--percentage--rate
11 "P"--for--class--four--property--is--8.55%;

12 (4)--Prior--to--July--17--1986,--the--department--of--revenue
13 shall--determine--the--taxable--percentage--rate--"P"--applicable
14 to--class--four--property--for--the--revaluation--cycle--beginning
15 January--17--1986,--as--follows:

16 (a)--The--director--of--the--department--of--revenue--shall
17 certify--to--the--governor--before--July--17--1986,--the--percentage
18 by--which--the--appraised--value--of--all--property--in--the--state
19 classified--under--class--four--as--of--January--17--1986,--has
20 increased--due--to--the--revaluation--conducted--under--15-7-111.

21 This--figure--is--the--certified--statewide--percentage--increase.
22 (b)--The--taxable--value--of--property--in--class--four--is
23 determined--as--a--function--of--the--certified--statewide
24 percentage--increase--in--accordance--with--the--table--shown
25 below.

1 (c) This table limits the statewide increase in
 2 taxable valuation resulting from reappraisal to 0%. In
 3 calculating the percentage increase, the department may not
 4 consider changes resulting from new construction, additions,
 5 or deletions during calendar year 1985.

6 (d) The taxable percentage must be calculated by
 7 interpolation to coincide with the nearest whole number
 8 certified statewide percentage increase from the following
 9 table:

| 10 Certified-Statewide | Class-Four-Taxable |
|------------------------|---|
| 11 Percentage-Increase | Percentage- ⁴ P ⁴ |
| 12 0 | 8.55 |
| 13 10 | 7.77 |
| 14 20 | 7.12 |
| 15 30 | 6.57 |
| 16 40 | 6.10 |
| 17 50 | 5.70 |
| 18 60 | 5.34 |
| 19 70 | 5.02 |
| 20 80 | 4.75 |
| 21 90 | 4.50 |
| 22 100 | 4.27 |
| 23 110 | 4.07 |
| 24 120 | 3.88 |
| 25 130 | 3.71 |

| 1 Certified-Statewide | Class-Four-Taxable |
|-----------------------|---|
| 2 Percentage-Increase | Percentage- ⁴ P ⁴ |
| 3 140 | 3.56 |
| 4 150 | 3.42 |
| 5 160 | 3.28 |
| 6 170 | 3.16 |
| 7 180 | 3.05 |
| 8 190 | 2.94 |
| 9 200 | 2.85 |
| 10 210 | 2.75 |
| 11 220 | 2.67 |
| 12 230 | 2.59 |
| 13 240 | 2.51 |
| 14 250 | 2.44 |
| 15 260 | 2.37 |
| 16 270 | 2.31 |
| 17 280 | 2.25 |
| 18 290 | 2.19 |
| 19 300 | 2.13 |

20 (5)(3) After July 1, 1986, no adjustment may be made
 21 by the department to the taxable percentage rate ⁴P⁴
 22 established in subsection (2)(a) until a revaluation has
 23 been made as provided in 15-7-111.

24 (6)(4) Within the meaning of comparable property as
 25 defined in 15-1-101, property assessed as commercial

1 property is comparable only to other property assessed as
 2 commercial property, and property assessed as other than
 3 commercial property is comparable only to other property
 4 assessed as other than commercial property."

5 Section 4, Section 15-6-142, MCA, is amended to read:

6 "15-6-142. Class twelve property -- description --
 7 taxable percentage -- (1) Class twelve property includes:

8 (a) a trailer or mobile home used as a residence
 9 except when:

10 (i) held by a distributor or dealer of trailers or
 11 mobile homes as his stock in trade; or

12 (ii) specifically included in another class;

13 (b) the first \$35,000 or less of the market value of a
 14 trailer or mobile home used as a residence and actually
 15 occupied for at least 10 months a year as the primary
 16 residential dwelling of any person whose total income from
 17 all sources including otherwise tax exempt income of all
 18 types is not more than \$10,000 for a single person or
 19 \$12,000 for a married couple.

20 (2) Class twelve property is taxed as follows:

21 (a) Property described in subsection (1)(a) that is
 22 not of the type described in subsection (1)(b) is taxed at
 23 the taxable percentage rate "P", described in 15-6-134,
 24 3.86% of its market value.

25 (b) Property described in subsection (1)(b) is taxed

1 at the taxable percentage rate "P", described in 15-6-134,
 2 3.86% of its market value multiplied by a percentage figure
 3 based on income and determined from the table established in
 4 subsection (2)(b) of 15-6-134."

5 SECTION 3. SECTION 15-6-135, MCA, IS AMENDED TO READ:

6 "15-6-135. Class five property -- description --
 7 taxable percentage. (1) Class five property includes:

8 (a) all property used and owned by cooperative rural
 9 electrical and cooperative rural telephone associations
 10 organized under the laws of Montana, except property owned
 11 by cooperative organizations described in subsection (1)(c)
 12 of 15-6-137;

13 (b) air and water pollution control equipment as
 14 defined in this section;

15 (c) new industrial property as defined in this
 16 section;

17 (d) any personal or real property used primarily in
 18 the production of gasohol during construction and for the
 19 first 3 years of its operation;

20 (e) all land and improvements and all personal
 21 property owned by a research and development firm, provided
 22 that the property is actively devoted to research and
 23 development.

24 (2) (a) "Air and water pollution equipment" means
 25 facilities, machinery, or equipment used to reduce or

1 control water or atmospheric pollution or contamination by
 2 removing, reducing, altering, disposing, or storing
 3 pollutants, contaminants, wastes, or heat. The department of
 4 health and environmental sciences shall determine if such
 5 utilization is being made.

6 (b) The department of health and environmental
 7 sciences' determination as to air and water pollution
 8 equipment may be appealed to the board of health and
 9 environmental sciences and may not be appealed to either a
 10 county tax appeal board or the state tax appeal board.
 11 However, the appraised value of the equipment as determined
 12 by the department of revenue may be appealed to the county
 13 tax appeal board and the state tax appeal board.

14 (3) "New industrial property" means any new industrial
 15 plant, including land, buildings, machinery, and fixtures,
 16 used by new industries during the first 3 years of their
 17 operation. The property may not have been assessed within
 18 the state of Montana prior to July 1, 1961.

19 (4) (a) "New industry" means any person, corporation,
 20 firm, partnership, association, or other group that
 21 establishes a new plant in Montana for the operation of a
 22 new industrial endeavor, as distinguished from a mere
 23 expansion, reorganization, or merger of an existing
 24 industry.

25 (b) New industry includes only those industries that:

1 (i) manufacture, mill, mine, produce, process, or
 2 fabricate materials;

3 (ii) do similar work, employing capital and labor, in
 4 which materials unserviceable in their natural state are
 5 extracted, processed, or made fit for use or are
 6 substantially altered or treated so as to create commercial
 7 products or materials; or

8 (iii) engage in the mechanical or chemical
 9 transformation of materials or substances into new products
 10 in the manner defined as manufacturing in the 1972 Standard
 11 Industrial Classification Manual prepared by the United
 12 States office of management and budget.

13 (5) New industrial property does not include:

14 (a) property used by retail or wholesale merchants,
 15 commercial services of any type, agriculture, trades, or
 16 professions;

17 (b) a plant that will create adverse impact on
 18 existing state, county, or municipal services; or

19 (c) property used or employed in any industrial plant
 20 that has been in operation in this state for 3 years or
 21 longer.

22 (6) Class five property is taxed at 3% of its market
 23 value."

24 Section 4. 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~~ Except as provided in [section 1] or 33-2-705(6),
 12 or as may be otherwise specifically provided, every
 13 corporation engaged in business in the state of Montana
 14 shall annually pay to the state treasurer as a license fee
 15 for the privilege of carrying on business in this state such
 16 percentage or percentages of its total net income for the
 17 preceding taxable year at the rate hereinafter set forth. In
 18 the case of corporations having income from business
 19 activity which is taxable both within and without this
 20 state, the license fee shall be measured by the net income
 21 derived from or attributable to Montana sources as
 22 determined under part 3. This tax is due and payable on the
 23 15th day of the 5th month following the close of the taxable
 24 year of the corporation; however, the tax becomes a lien as
 25 provided in this chapter on the last day of the taxable year

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

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

12 Section 5. Section 15-31-401, MCA, is amended to read:
 13 "15-31-401. Application of license and income taxes.
 14 (1) It is the intent of the legislature that the corporation
 15 license tax shall be applied to all corporations subject to
 16 taxation under part 1 of this chapter. The Except as
 17 provided in subsection (2), the income tax provided by this
 18 part shall be applied to corporations that are not taxable
 19 under part 1 of this chapter but are taxable under an income
 20 tax.

21 (2) During its first 5 TAXABLE years of activity IN
 22 MONTANA, THE NET INCOME EARNED FROM RESEARCH AND DEVELOPMENT
 23 ACTIVITIES BY a research and development firm as described
 24 in [section 1] is not subject to either the corporation
 25 license tax provided in part 1 of this chapter or to the

1 corporation income tax provided in this part."

2 Section 6. Section 15-31-403, MCA, is amended to read:

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

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

1 security.

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

14 NEW SECTION. Section 7. Extension of authority. Any
15 existing authority of the department of revenue to make
16 rules on the subject of the provisions of this act is
17 extended to the provisions of this act.

18 NEW SECTION. Section 8. Codification instruction.
19 Section 1 is intended to be codified as an integral part of
20 Title 15, chapter 31, and the provisions of Title 15 apply
21 to section 1.

22 NEW SECTION. Section 9. Effective date. This act is
23 effective July 1, 1987.

-End-

1 SENATE BILL NO. 64
2 INTRODUCED BY HALLIGAN
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A 5-YEAR
5 CORPORATION LICENSE TAX EXEMPTION FOR RESEARCH AND
6 DEVELOPMENT FIRMS; CLASSIFYING ALL PROPERTY OWNED AND USED
7 BY A RESEARCH AND DEVELOPMENT FIRM AS CLASS FOUR FIVE
8 PROPERTY; AMENDING SECTIONS 15-1-101, ~~15-6-1347~~--~~15-6-142~~
9 ~~15-6-1357~~ 15-31-101, 15-31-401, AND 15-31-403, MCA; AND
10 PROVIDING AN EFFECTIVE DATE."

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

13 NEW SECTION. Section 1. Research and development
14 firms exempt from taxation -- application. (1) A research
15 and development firm organized to engage in business in the
16 state of Montana FOR THE FIRST TIME is not subject to any of
17 the taxes imposed by this chapter ON NET INCOME EARNED FROM
18 RESEARCH AND DEVELOPMENT ACTIVITIES during its first 5
19 TAXABLE years of activity IN MONTANA. FOR PURPOSES OF [THIS
20 ACT], "TAXABLE YEAR" MEANS A RESEARCH AND DEVELOPMENT FIRM'S
21 TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES.

22 (2) (a) To be considered a research and development
23 firm, the chief executive officer of the firm or his agent
24 shall file with the department of revenue an application for
25 treatment as a research and development firm.

1 (b) The application must be made on a form to be
2 provided by the department. The form must include, at a
3 minimum:

4 (i) the name and address of each officer of the
5 research and development firm;

6 (ii) the name of the research and development firm as
7 required for the purpose of incorporation in 35-1-202;

8 (iii) the address of its initial registered office
9 required for the purpose of incorporation as required in
10 35-1-202;

11 (iv) the date the articles of incorporation were filed
12 with the secretary of state as required in 35-1-203; and

13 (v) other information the department requires to
14 effectively administer the provisions of this section.

15 (c) The application must be filed with the department
16 before the end of the first calendar quarter during which
17 the research and development firm engages in business in
18 Montana.

19 (3) On receipt of the information required in
20 subsection (2)(b), provided that it was filed in the time
21 allowed under subsection (2)(c), the department shall
22 designate the applicant as a research and development firm
23 for the purposes of this section.

24 (4) Failure by an applicant to provide information
25 required by the department under subsection (2)(b) or,

1 except as provided in subsection (5), failure to file within
2 the time allowed under subsection (2)(c) automatically
3 disqualifies the applicant from being designated and treated
4 as a research and development firm for the purposes of this
5 section.

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

12 (6) For the purpose of calculating or otherwise
13 determining the period for which a deduction, exclusion,
14 exemption, or credit may be taken under the provisions of
15 this chapter, the department shall disregard a research and
16 development firm's first 5 TAXABLE years of activity IN
17 MONTANA and administer the deduction, exclusion, exemption,
18 or credit as if the corporation did not exist during that
19 period THOSE TAXABLE YEARS. This treatment of a research and
20 development firm extends to net operating loss carryback and
21 net operating loss carryforward provisions allowed under
22 this chapter.

23 (7) A PROPOSED RESEARCH AND DEVELOPMENT FIRM MAY,
24 PRIOR TO INCORPORATION, SUBMIT THE INFORMATION REQUIRED
25 UNDER SUBSECTION (2)(B) TO THE DEPARTMENT FOR A PRELIMINARY

1 DETERMINATION OF WHETHER THE PROPOSED FIRM WOULD QUALIFY FOR
2 THE TAX EXEMPTION PROVIDED FOR IN SUBSECTION (1).

3 ~~(7) For the purposes of this section, the 5-year~~
4 ~~exemption period begins with the first calendar quarter~~
5 ~~during which the research and development firm is engaged in~~
6 ~~business and extends through the following 19 calendar~~
7 ~~quarters:~~

8 Section 2. Section 15-1-101, MCA, is amended to read:
9 "15-1-101. Definitions. (1) Except as otherwise
10 specifically provided, when terms mentioned in this section
11 are used in connection with taxation, they are defined in
12 the following manner:

13 (a) The term "agricultural" refers to the raising of
14 livestock, poultry, bees, and other species of domestic
15 animals and wildlife in domestication or a captive
16 environment, and the raising of field crops, fruit, and
17 other animal and vegetable matter for food or fiber.

18 (b) The term "assessed value" means the value of
19 property as defined in 15-8-111.

20 (c) The term "average wholesale value" means the value
21 to a dealer prior to reconditioning and profit margin shown
22 in national appraisal guides and manuals or the valuation
23 schedules of the department of revenue.

24 (d) (i) The term "commercial", when used to describe
25 property, means any property used or owned by a business, a

1 trade, or a nonprofit corporation as defined in 35-2-102 or
 2 used for the production of income, except that property
 3 described in subsection (ii).

4 (ii) The following types of property are not
 5 commercial:

6 (A) agricultural lands;

7 (B) timberlands;

8 (C) single-family residences and ancillary
 9 improvements and improvements necessary to the function of a
 10 bona fide farm, ranch, or stock operation;

11 (D) mobile homes used exclusively as a residence
 12 except when held by a distributor or dealer of trailers or
 13 mobile homes as his stock in trade;

14 (E) all property described in 15-6-135;

15 (F) all property described in 15-6-136; and

16 (G) all property described in 15-6-146.

17 (e) The term "comparable property" means property that
 18 has similar use, function, and utility; that is influenced
 19 by the same set of economic trends and physical,
 20 governmental, and social factors; and that has the potential
 21 of a similar highest and best use.

22 (f) The term "credit" means solvent debts, secured or
 23 unsecured, owing to a person.

24 (g) The term "improvements" includes all buildings,
 25 structures, fences, and improvements situated upon, erected

1 upon, or affixed to land. When the department of revenue or
 2 its agent determines that the permanency of location of a
 3 mobile home or housetrailer has been established, the mobile
 4 home or housetrailer is presumed to be an improvement to
 5 real property. A mobile home or housetrailer may be
 6 determined to be permanently located only when it is
 7 attached to a foundation which cannot feasibly be relocated
 8 and only when the wheels are removed.

9 (h) The term "leasehold improvements" means
 10 improvements to mobile homes and mobile homes located on
 11 land owned by another person. This property is assessed
 12 under the appropriate classification and the taxes are due
 13 and payable in two payments as provided in 15-24-202.
 14 Delinquent taxes on such leasehold improvements are a lien
 15 only on such leasehold improvements.

16 (i) The term "livestock" means cattle, sheep, swine,
 17 goats, horses, mules, and asses.

18 (j) The term "mobile home" means forms of housing
 19 known as "trailers", "housetrailers", or "trailer coaches"
 20 exceeding 8 feet in width or 45 feet in length, designed to
 21 be moved from one place to another by an independent power
 22 connected to them, or any "trailer", "housetrailer", or
 23 "trailer coach" up to 8 feet in width or 45 feet in length
 24 used as a principal residence.

25 (k) The term "personal property" includes everything

1 that is the subject of ownership but that is not included
2 within the meaning of the terms "real estate" and
3 "improvements".

4 (l) The term "poultry" includes all chickens, turkeys,
5 geese, ducks, and other birds raised in domestication to
6 produce food or feathers.

7 (m) The term "property" includes moneys, credits,
8 bonds, stocks, franchises, and all other matters and things,
9 real, personal, and mixed, capable of private ownership.
10 This definition must not be construed to authorize the
11 taxation of the stocks of any company or corporation when
12 the property of such company or corporation represented by
13 the stocks is within the state and has been taxed.

14 (n) The term "real estate" includes:

15 (i) the possession of, claim to, ownership of, or
16 right to the possession of land;

17 (ii) all mines, minerals, and quarries in and under the
18 land subject to the provisions of 15-23-501 and Title 15,
19 chapter 23, part 8; all timber belonging to individuals or
20 corporations growing or being on the lands of the United
21 States; and all rights and privileges appertaining thereto.

22 (o) "Research and development firm" means an entity
23 incorporated under the laws of this state OR A FOREIGN
24 CORPORATION AUTHORIZED TO DO BUSINESS IN THIS STATE whose
25 principal purpose is to engage in theoretical analysis,

1 exploration, and experimentation and the extension of
2 investigative findings and theories of a scientific and
3 technical nature into practical application for experimental
4 and demonstration purposes, including the experimental
5 production and testing of models, devices, equipment,
6 materials, and processes.

7 (p) The term "taxable value" means the percentage
8 of market or assessed value as provided for in 15-6-131
9 through 15-6-140.

10 (2) The phrase "municipal corporation" or
11 "municipality" or "taxing unit" shall be deemed to include a
12 county, city, incorporated town, township, school district,
13 irrigation district, drainage district, or any person,
14 persons, or organized body authorized by law to establish
15 tax levies for the purpose of raising public revenue.

16 (3) The term "state board" or "board" when used
17 without other qualification shall mean the state tax appeal
18 board."

19 ~~Section-3---Section-15-6-134-MCA-is-amended-to-read-~~
20 ~~"15-6-134---Class---four---property-----description---~~
21 ~~taxable-percentage---(1)-Class-four-property-includes:~~
22 ~~{a}--all-land-except as-provided-in-subsection--(1)(e)~~
23 ~~and that-specifically-included-in-another-class;~~
24 ~~{b}--all-improvements-except as-provided-in-subsection~~
25 ~~{1}(e)-and those-specifically-included-in-another-class;~~

1 (c) the first \$35,000 or less of the market value of
 2 any improvement on real property and appurtenant land not
 3 exceeding 5 acres owned or under contract for deed and
 4 actually occupied for at least 10 months a year as the
 5 primary residential dwelling of any person whose total
 6 income from all sources including otherwise tax exempt
 7 income of all types is not more than \$10,000 for a single
 8 person or \$12,000 for a married couple;

9 (d) all golf courses, including land and improvements
 10 actually and necessarily used for that purpose, that consist
 11 of at least 9 holes and not less than 3,000 linear yards;

12 (e) all land and improvements and all personal
 13 property owned by a research and development firm, provided
 14 that the property is actively devoted to research and
 15 development;

16 (2) Class four property is taxed as follows:

17 (a) Except as provided in 15-24-1402 or 15-24-1501,
 18 property described in subsections (1)(a) and (1)(b) is taxed
 19 at the taxable percentage rate "P" 3.86% of its market
 20 value;

21 (b) Property described in subsection (1)(c) is taxed
 22 at the taxable percentage rate "P" 3.86% of its market value
 23 multiplied by a percentage figure based on income and
 24 determined from the following table:

25 income income Percentage

| 1 | Single Person | Married Couple | Multiplier |
|----|------------------|------------------|------------|
| 2 | -\$0-----\$1,000 | -\$0-----\$1,200 | 0% |
| 3 | 1,001----2,000 | 1,201----2,400 | 10% |
| 4 | 2,001----3,000 | 2,401----3,600 | 20% |
| 5 | 3,001----4,000 | 3,601----4,800 | 30% |
| 6 | 4,001----5,000 | 4,801----6,000 | 40% |
| 7 | 5,001----6,000 | 6,001----7,200 | 50% |
| 8 | 6,001----7,000 | 7,201----8,400 | 60% |
| 9 | 7,001----8,000 | 8,401----9,600 | 70% |
| 10 | 8,001----9,000 | 9,601----10,800 | 80% |
| 11 | 9,001----10,000 | 10,801----12,000 | 90% |

12 (c) Property described in subsection subsections
 13 (1)(d) and (1)(e) is taxed at one-half the taxable
 14 percentage rate "P" established in subsection (2)(a);

15 (3) Until January 1, 1986, the taxable percentage rate
 16 "P" for class four property is 0.55%.

17 (4) Prior to July 1, 1986, the department of revenue
 18 shall determine the taxable percentage rate "P" applicable
 19 to class four property for the revaluation cycle beginning
 20 January 1, 1986, as follows:

21 (a) The director of the department of revenue shall
 22 certify to the governor before July 1, 1986, the percentage
 23 by which the appraised value of all property in the state
 24 classified under class four as of January 1, 1986, has
 25 increased due to the revaluation conducted under 15-7-111.

1 This figure is the certified statewide percentage increase.
 2 (b) The taxable value of property in class four is
 3 determined as a function of the certified statewide
 4 percentage increase in accordance with the table shown
 5 below.

6 (c) This table limits the statewide increase in
 7 taxable valuation resulting from reappraisal to 0% in
 8 calculating the percentage increase; the department may not
 9 consider changes resulting from new construction, additions,
 10 or deletions during calendar year 1985.

11 (d) The taxable percentage must be calculated by
 12 interpolation to coincide with the nearest whole number
 13 certified statewide percentage increase from the following
 14 table:

| Certified Statewide Percentage Increase | Class Four Taxable Percentage - "P" |
|--|--|
| 0 | 8.55 |
| 10 | 7.77 |
| 20 | 7.12 |
| 30 | 6.57 |
| 40 | 6.10 |
| 50 | 5.70 |
| 60 | 5.34 |
| 70 | 5.02 |
| 80 | 4.75 |

| Certified Statewide Percentage Increase | Class Four Taxable Percentage - "P" |
|--|--|
| 90 | 4.50 |
| 100 | 4.27 |
| 110 | 4.07 |
| 120 | 3.88 |
| 130 | 3.71 |
| 140 | 3.56 |
| 150 | 3.42 |
| 160 | 3.28 |
| 170 | 3.16 |
| 180 | 3.05 |
| 190 | 2.94 |
| 200 | 2.85 |
| 210 | 2.75 |
| 220 | 2.67 |
| 230 | 2.59 |
| 240 | 2.51 |
| 250 | 2.44 |
| 260 | 2.37 |
| 270 | 2.31 |
| 280 | 2.25 |
| 290 | 2.19 |
| 300 | 2.13 |

(5)(3) After July 1, 1986, no adjustment may be made

1 by the department to the taxable percentage rate "P"
2 established in subsection (2)(a) until a revaluation has
3 been made as provided in 15-7-111.

4 (6)(4) Within the meaning of comparable property as
5 defined in 15-1-101, property assessed as commercial
6 property is comparable only to other property assessed as
7 commercial property, and property assessed as other than
8 commercial property is comparable only to other property
9 assessed as other than commercial property."

10 Section 4. Section 15-6-142, MCA, is amended to read:

11 "15-6-142. Class twelve property description
12 taxable percentage: (1) Class twelve property includes:

13 (a) a trailer or mobile home used as a residence
14 except when:

15 (i) held by a distributor or dealer of trailers or
16 mobile homes as his stock in trade, or

17 (ii) specifically included in another class;

18 (b) the first \$35,000 or less of the market value of a
19 trailer or mobile home used as a residence and actually
20 occupied for at least 10 months a year as the primary
21 residential dwelling of any person whose total income from
22 all sources including otherwise tax exempt income of all
23 types is not more than \$10,000 for a single person or
24 \$12,000 for a married couple;

25 (2) Class twelve property is taxed as follows:

1 (a) Property described in subsection (1)(a) that is
2 not of the type described in subsection (1)(b) is taxed at
3 the taxable percentage rate "P" described in 15-6-134,
4 3.86% of its market value.

5 (b) Property described in subsection (1)(b) is taxed
6 at the taxable percentage rate "P" described in 15-6-134,
7 3.86% of its market value multiplied by a percentage figure
8 based on income and determined from the table established in
9 subsection (2)(b) of 15-6-134."

10 SECTION 3. SECTION 15-6-135, MCA, IS AMENDED TO READ:

11 "15-6-135. Class five property description
12 taxable percentage: (1) Class five property includes:

13 (a) all property used and owned by cooperative rural
14 electrical and cooperative rural telephone associations
15 organized under the laws of Montana, except property owned
16 by cooperative organizations described in subsection (1)(c)
17 of 15-6-137;

18 (b) air and water pollution control equipment as
19 defined in this section;

20 (c) new industrial property as defined in this
21 section;

22 (d) any personal or real property used primarily in
23 the production of gasoline during construction and for the
24 first 3 years of its operation;

25 (e) all land and improvements and all personal

1 property-owned-by-a-research-and-development-firm,--provided
 2 that--the--property--is--actively--devoted--to--research-and
 3 development;

4 (2)--(a)--"Air--and--water--pollution--equipment"--means
 5 facilities,--machinery,--or--equipment--used--to--reduce--or
 6 control--water--or--atmospheric--pollution--or--contamination--by
 7 removing,--reducing,--altering,--disposing,--or--storing
 8 pollutants,--contaminants,--wastes,--or--heat;--The--department--of
 9 health--and--environmental--sciences--shall--determine--if--such
 10 utilization--is--being--made;

11 (b)--The--department--of--health--and--environmental
 12 sciences--determination--as--to--air--and--water--pollution
 13 equipment--may--be--appealed--to--the--board--of--health--and
 14 environmental--sciences--and--may--not--be--appealed--to--either--a
 15 county--tax--appeal--board--or--the--state--tax--appeal--board;
 16 However,--the--appraised--value--of--the--equipment--as--determined
 17 by--the--department--of--revenue--may--be--appealed--to--the--county
 18 tax--appeal--board--and--the--state--tax--appeal--board;

19 (3)--"New--industrial--property"--means--any--new--industrial
 20 plant,--including--land,--buildings,--machinery,--and--fixtures,
 21 used--by--new--industries--during--the--first--3--years--of--their
 22 operation;--The--property--may--not--have--been--assessed--within
 23 the--state--of--Montana--prior--to--July--1,--1961;

24 (4)--(a)--"New--industry"--means--any--person,--corporation,
 25 firm,--partnership,--association,--or--other--group--that

1 establishes--a--new--plant--in--Montana--for--the--operation--of--a
 2 new--industrial--endeavor,--as--distinguished--from--a--mere
 3 expansion,--reorganization,--or--merger--of--an--existing
 4 industry;

5 (b)--New--industry--includes--only--those--industries--that:
 6 (i)--manufacture,--mine,--produce,--process,--or
 7 fabricate--materials;

8 (ii)--do--similar--work,--employing--capital--and--labor,--in
 9 which--materials--unserviceable--in--their--natural--state--are
 10 extracted,--processed,--or--made--fit--for--use--or--are
 11 substantially--altered--or--treated--so--as--to--create--commercial
 12 products--or--materials,--or

13 (iii)--engage--in--the--mechanical--or--chemical
 14 transformation--of--materials--or--substances--into--new--products
 15 in--the--manner--defined--as--manufacturing--in--the--1972--Standard
 16 Industrial--Classification--Manual--prepared--by--the--United
 17 States--office--of--management--and--budget;

18 (5)--New--industrial--property--does--not--include:

19 (a)--property--used--by--retail--or--wholesale--merchants,
 20 commercial--services--of--any--type,--agriculture,--trades,--or
 21 professions;

22 (b)--a--plant--that--will--create--adverse--impact--on
 23 existing--state,--county,--or--municipal--services,--or

24 (c)--property--used--or--employed--in--any--industrial--plant
 25 that--has--been--in--operation--in--this--state--for--3--years--or

1 longer:

2 ~~(6) --Class--five--property-is-taxed-at-3%--of-its-market~~
3 ~~value--"~~

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

5 "15-31-101. Organizations subject to tax. (1) The term
6 "corporation" includes associations, joint-stock companies,
7 common-law trusts and business trusts which do business in
8 an organized capacity, and all other corporations whether
9 created, organized, or existing under and pursuant to the
10 laws, agreements, or declarations of trust of any state,
11 country, or the United States.

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

15 ~~(3) Every-corporation--except-as-hereinafter--provided~~
16 ~~and-except~~ Except as provided in [section 1] or 33-2-705(6)
17 ~~or as may be otherwise specifically provided, every~~
18 corporation engaged in business in the state of Montana
19 shall annually pay to the state treasurer as a license fee
20 for the privilege of carrying on business in this state such
21 percentage or percentages of its total net income for the
22 preceding taxable year at the rate hereinafter set forth. In
23 the case of corporations having income from business
24 activity which is taxable both within and without this
25 state, the license fee shall be measured by the net income

1 derived from or attributable to Montana sources as
2 determined under part 3. This tax is due and payable on the
3 15th day of the 5th month following the close of the taxable
4 year of the corporation; however, the tax becomes a lien as
5 provided in this chapter on the last day of the taxable year
6 in which the income was earned and is for the privilege of
7 carrying on business in this state for the taxable year in
8 which the income was earned.

9 (4) Every bank organized under the laws of the state
10 of Montana, of any other state, or of the United States and
11 every savings and loan association organized under the laws
12 of this state or of the United States is subject to the
13 Montana corporation license tax provided for under this
14 chapter. For taxable years beginning on and after January 1,
15 1972, this subsection is effective in accordance with Public
16 Law 91-156, section 2 (12 U.S.C. 548)."

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

18 "15-31-401. Application of license and income taxes.
19 (1) It is the intent of the legislature that the corporation
20 license tax shall be applied to all corporations subject to
21 taxation under part 1 of this chapter. ~~The~~ Except as
22 provided in subsection (2), the income tax provided by this
23 part shall be applied to corporations that are not taxable
24 under part 1 of this chapter but are taxable under an income
25 tax.

1 (2) During its first 5 TAXABLE years of activity IN
 2 MONTANA, THE NET INCOME EARNED FROM RESEARCH AND DEVELOPMENT
 3 ACTIVITIES BY a research and development firm as described
 4 in [section 1] is not subject to either the corporation
 5 license tax provided in part 1 of this chapter or to the
 6 corporation income tax provided in this part."

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

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

18 (2) Income from sources within this state includes
 19 income from tangible or intangible property located in or
 20 having a situs in this state and income from any activities
 21 carried on in this state, regardless of whether carried on
 22 in intrastate, interstate, or foreign commerce, but does not
 23 include interest paid on loans held by out-of-state
 24 financial institutions recognized as such in the state of
 25 their domicile, secured by mortgages, trust indentures, or

1 other security interests on real or personal property
 2 located within the state, if the loan is originated by a
 3 lender doing business in Montana and assigned out-of-state
 4 and there is no activity conducted by the out-of-state
 5 lender in Montana except periodic inspection of the
 6 security.

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

19 NEW SECTION. Section 6. Extension of authority. Any
 20 existing authority of the department of revenue to make
 21 rules on the subject of the provisions of this act is
 22 extended to the provisions of this act.

23 NEW SECTION. Section 7. Codification instruction.
 24 Section 1 is intended to be codified as an integral part of
 25 Title 15, chapter 31, and the provisions of Title 15 apply

SB 0064/04

1 to section 1.

2 NEW SECTION. Section 8. Effective date. This act is

3 effective July 1, 1987.

-End-

CONFERENCE COMMITTEE REPORT Report No. 1

April 16, 1987

fccsb64.fcc

April 16, 1987

MR. PRESIDENT

We, your _____ Conference Committee on

Senate Bill No. 64

met and considered Senate Bill No. 64 in its entirety

We recommend as follows:

THAT SENATE BILL NO. 64, REFERENCE COPY (SALMON), BE AMENDED AS FOLLOWS:

1. Title, line 9.
Following: " 15-6-135, "
Insert: " 15-6-135, "

2. Page 3, line 23.
Following: line 22
Strike: subsection (7) in its entirety

3. Page 17, following line 3.
Insert: " Section 3. Section 15-6-135, MCA, is amended to read:
"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

CONTINUED

And that this Conference Committee report be adopted

FOR THE SENATE

Halligan, Chairman

Brown

McCallum

FOR THE HOUSE

Ream

Ramirez

Asay

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in subsection (1)(c) of 15-6-137;

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation-;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

CONTINUED

ADAPT REJECT

fccsb64.fcc

April 16, 1987

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget.

(5) New industrial property does not include:

- (a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;
- (b) a plant that will create adverse impact on existing state, county, or municipal services; or
- (c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.

(6) Class five property is taxed at 3% of its market value."

Renumber: subsequent sections.

STANDING COMMITTEE REPORT

HOUSE

APRIL 6 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report SENATE BILL NO. 64

- do pass
- be concurred in
- as amended
- do not pass
- be not concurred in
- statement of intent attached

Jack Ramirez
 Representative Jack Ramirez, Chairman

Be amended as follows:

1. Title, line 9
Strike: "15-6-135,"
2. Page 3, line 23
Following: line 22
Insert: "(7) A proposed research and development firm may, prior to incorporation, submit the information required under subsection (2)(b) to the department for a preliminary determination of whether the proposed firm would qualify for the tax exemption provided for in subsection (1)."
3. Page 14, line 5 through page 16, line 23
Strike: Section 3 in its entirety
Renumber: subsequent sections

AA
SW
Carried by Rep Ramirez

1 SENATE BILL NO. 64
2 INTRODUCED BY HALLIGAN
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A 5-YEAR
5 CORPORATION LICENSE TAX EXEMPTION FOR RESEARCH AND
6 DEVELOPMENT FIRMS; CLASSIFYING ALL PROPERTY OWNED AND USED
7 BY A RESEARCH AND DEVELOPMENT FIRM AS CLASS FOUR FIVE
8 PROPERTY; AMENDING SECTIONS 15-1-101, ~~15-6-134~~--~~15-6-142~~
9 ~~15-6-135~~, 15-6-135, 15-31-101, 15-31-401, AND 15-31-403,
10 MCA; AND PROVIDING AN EFFECTIVE DATE."
11

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

13 NEW SECTION. Section 1. Research and development
14 firms exempt from taxation -- application. (1) A research
15 and development firm organized to engage in business in the
16 state of Montana FOR THE FIRST TIME is not subject to any of
17 the taxes imposed by this chapter ON NET INCOME EARNED FROM
18 RESEARCH AND DEVELOPMENT ACTIVITIES during its first 5
19 TAXABLE years of activity IN MONTANA. FOR PURPOSES OF [THIS
20 ACT], "TAXABLE YEAR" MEANS A RESEARCH AND DEVELOPMENT FIRM'S
21 TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES.

22 (2) (a) To be considered a research and development
23 firm, the chief executive officer of the firm or his agent
24 shall file with the department of revenue an application for
25 treatment as a research and development firm.

1 (b) The application must be made on a form to be
2 provided by the department. The form must include, at a
3 minimum:

4 (i) the name and address of each officer of the
5 research and development firm;

6 (ii) the name of the research and development firm as
7 required for the purpose of incorporation in 35-1-202;

8 (iii) the address of its initial registered office
9 required for the purpose of incorporation as required in
10 35-1-202;

11 (iv) the date the articles of incorporation were filed
12 with the secretary of state as required in 35-1-203; and

13 (v) other information the department requires to
14 effectively administer the provisions of this section.

15 (c) The application must be filed with the department
16 before the end of the first calendar quarter during which
17 the research and development firm engages in business in
18 Montana.

19 (3) On receipt of the information required in
20 subsection (2)(b), provided that it was filed in the time
21 allowed under subsection (2)(c), the department shall
22 designate the applicant as a research and development firm
23 for the purposes of this section.

24 (4) Failure by an applicant to provide information
25 required by the department under subsection (2)(b) or,

1 except as provided in subsection (5), failure to file within
2 the time allowed under subsection (2)(c) automatically
3 disqualifies the applicant from being designated and treated
4 as a research and development firm for the purposes of this
5 section.

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

12 (6) For the purpose of calculating or otherwise
13 determining the period for which a deduction, exclusion,
14 exemption, or credit may be taken under the provisions of
15 this chapter, the department shall disregard a research and
16 development firm's first 5 TAXABLE years of activity IN
17 MONTANA and administer the deduction, exclusion, exemption,
18 or credit as if the corporation did not exist during that
19 period THOSE TAXABLE YEARS. This treatment of a research and
20 development firm extends to net operating loss carryback and
21 net operating loss carryforward provisions allowed under
22 this chapter.

23 ~~(7) -- A -- PROPOSED -- RESEARCH -- AND -- DEVELOPMENT -- FIRM -- MAY --~~
24 ~~PRIOR -- TO -- INCORPORATION, -- SUBMIT -- THE -- INFORMATION -- REQUIRED~~
25 ~~UNDER -- SUBSECTION -- (2) (B) -- TO -- THE -- DEPARTMENT -- FOR -- A -- PRELIMINARY~~

1 ~~DETERMINATION -- OF -- WHETHER -- THE -- PROPOSED -- FIRM -- WOULD -- QUALIFY -- FOR~~
2 ~~THE -- TAX -- EXEMPTION -- PROVIDED -- FOR -- IN -- SUBSECTION -- (1) ;~~

3 ~~(7) -- For -- the -- purposes -- of -- this -- section, -- the -- 5 -- year~~
4 ~~exemption -- period -- begins -- with -- the -- first -- calendar -- quarter~~
5 ~~during -- which -- the -- research -- and -- development -- firm -- is -- engaged -- in~~
6 ~~business -- and -- extends -- through -- the -- following -- 19 -- calendar~~
7 ~~quarters.~~

8 Section 2. Section 15-1-101, MCA, is amended to read:

9 "15-1-101. Definitions. (1) Except as otherwise
10 specifically provided, when terms mentioned in this section
11 are used in connection with taxation, they are defined in
12 the following manner:

13 (a) The term "agricultural" refers to the raising of
14 livestock, poultry, bees, and other species of domestic
15 animals and wildlife in domestication or a captive
16 environment, and the raising of field crops, fruit, and
17 other animal and vegetable matter for food or fiber.

18 (b) The term "assessed value" means the value of
19 property as defined in 15-8-111.

20 (c) The term "average wholesale value" means the value
21 to a dealer prior to reconditioning and profit margin shown
22 in national appraisal guides and manuals or the valuation
23 schedules of the department of revenue.

24 (d) (i) The term "commercial", when used to describe
25 property, means any property used or owned by a business, a

1 trade, or a nonprofit corporation as defined in 35-2-102 or
 2 used for the production of income, except that property
 3 described in subsection (ii).

4 (ii) The following types of property are not
 5 commercial:

6 (A) agricultural lands;

7 (B) timberlands;

8 (C) single-family residences and ancillary
 9 improvements and improvements necessary to the function of a
 10 bona fide farm, ranch, or stock operation;

11 (D) mobile homes used exclusively as a residence
 12 except when held by a distributor or dealer of trailers or
 13 mobile homes as his stock in trade;

14 (E) all property described in 15-6-135;

15 (F) all property described in 15-6-136; and

16 (G) all property described in 15-6-146.

17 (e) The term "comparable property" means property that
 18 has similar use, function, and utility; that is influenced
 19 by the same set of economic trends and physical,
 20 governmental, and social factors; and that has the potential
 21 of a similar highest and best use.

22 (f) The term "credit" means solvent debts, secured or
 23 unsecured, owing to a person.

24 (g) The term "improvements" includes all buildings,
 25 structures, fences, and improvements situated upon, erected

1 upon, or affixed to land. When the department of revenue or
 2 its agent determines that the permanency of location of a
 3 mobile home or housetrailer has been established, the mobile
 4 home or housetrailer is presumed to be an improvement to
 5 real property. A mobile home or housetrailer may be
 6 determined to be permanently located only when it is
 7 attached to a foundation which cannot feasibly be relocated
 8 and only when the wheels are removed.

9 (h) The term "leasehold improvements" means
 10 improvements to mobile homes and mobile homes located on
 11 land owned by another person. This property is assessed
 12 under the appropriate classification and the taxes are due
 13 and payable in two payments as provided in 15-24-202.
 14 Delinquent taxes on such leasehold improvements are a lien
 15 only on such leasehold improvements.

16 (i) The term "livestock" means cattle, sheep, swine,
 17 goats, horses, mules, and asses.

18 (j) The term "mobile home" means forms of housing
 19 known as "trailers", "housetrailers", or "trailer coaches"
 20 exceeding 8 feet in width or 45 feet in length, designed to
 21 be moved from one place to another by an independent power
 22 connected to them, or any "trailer", "housetrailer", or
 23 "trailer coach" up to 8 feet in width or 45 feet in length
 24 used as a principal residence.

25 (k) The term "personal property" includes everything

1 that is the subject of ownership but that is not included
2 within the meaning of the terms "real estate" and
3 "improvements".

4 (l) The term "poultry" includes all chickens, turkeys,
5 geese, ducks, and other birds raised in domestication to
6 produce food or feathers.

7 (m) The term "property" includes moneys, credits,
8 bonds, stocks, franchises, and all other matters and things,
9 real, personal, and mixed, capable of private ownership.
10 This definition must not be construed to authorize the
11 taxation of the stocks of any company or corporation when
12 the property of such company or corporation represented by
13 the stocks is within the state and has been taxed.

14 (n) The term "real estate" includes:

15 (i) the possession of, claim to, ownership of, or
16 right to the possession of land;

17 (ii) all mines, minerals, and quarries in and under the
18 land subject to the provisions of 15-23-501 and Title 15,
19 chapter 23, part 8; all timber belonging to individuals or
20 corporations growing or being on the lands of the United
21 States; and all rights and privileges appertaining thereto.

22 (o) "Research and development firm" means an entity
23 incorporated under the laws of this state OR A FOREIGN
24 CORPORATION AUTHORIZED TO DO BUSINESS IN THIS STATE whose
25 principal purpose is to engage in theoretical analysis,

1 exploration, and experimentation and the extension of
2 investigative findings and theories of a scientific and
3 technical nature into practical application for experimental
4 and demonstration purposes, including the experimental
5 production and testing of models, devices, equipment,
6 materials, and processes.

7 (p) The term "taxable value" means the percentage
8 of market or assessed value as provided for in 15-6-131
9 through 15-6-140.

10 (2) The phrase "municipal corporation" or
11 "municipality" or "taxing unit" shall be deemed to include a
12 county, city, incorporated town, township, school district,
13 irrigation district, drainage district, or any person,
14 persons, or organized body authorized by law to establish
15 tax levies for the purpose of raising public revenue.

16 (3) The term "state board" or "board" when used
17 without other qualification shall mean the state tax appeal
18 board."

19 ~~Section 3,--Section 15-6-134,--MCA,--is amended to--read:~~

20 ~~"15-6-134,--Class--four--property-----description----~~
21 ~~taxable-percentage.--(1)--Class-four-property--includes:~~

22 ~~(a)--all-land-except as-provided-in-subsection--(1)(e)~~
23 ~~and that-specifically-included-in-another-class;~~

24 ~~(b)--all--improvements-except as-provided-in-subsection~~
25 ~~(1)(e)--and those-specifically-included-in-another-class;~~

1 (c) the first \$35,000 or less of the market value of
 2 any improvement on real property and appurtenant land not
 3 exceeding 5 acres owned or under contract for deed and
 4 actually occupied for at least 10 months a year as the
 5 primary residential dwelling of any person whose total
 6 income from all sources including otherwise tax exempt
 7 income of all types is not more than \$10,000 for a single
 8 person or \$12,000 for a married couple;

9 (d) all golf courses, including land and improvements
 10 actually and necessarily used for that purpose, that consist
 11 of at least 9 holes and not less than 3,000 linear yards;

12 (e) all land and improvements and all personal
 13 property owned by a research and development firm, provided
 14 that the property is actively devoted to research and
 15 development;

16 (2) Class four property is taxed as follows:

17 (a) Except as provided in 15-24-1402 or 15-24-1501,
 18 property described in subsections (1)(a) and (1)(b) is taxed
 19 at the taxable percentage rate "P" 3.86% of its market
 20 value;

21 (b) Property described in subsection (1)(c) is taxed
 22 at the taxable percentage rate "P" 3.86% of its market value
 23 multiplied by a percentage figure based on income and
 24 determined from the following table:

25 Income Income Percentage

| 1 | Single Person | Married Couple | Multiplier |
|----|-------------------|--------------------|------------|
| 2 | -\$0-----\$17,000 | -\$0-----\$17,200 | -0% |
| 3 | 17,001----27,000 | 17,201----27,400 | 10% |
| 4 | 27,001----37,000 | 27,401----37,600 | 20% |
| 5 | 37,001----47,000 | 37,601----47,800 | 30% |
| 6 | 47,001----57,000 | 47,801----57,800 | 40% |
| 7 | 57,001----67,000 | 67,801----77,200 | 50% |
| 8 | 67,001----77,000 | 77,201----87,400 | 60% |
| 9 | 77,001----87,000 | 87,401----97,600 | 70% |
| 10 | 87,001----97,000 | 97,601----107,800 | 80% |
| 11 | 97,001----107,000 | 107,801----127,000 | 90% |

12 (c) Property described in subsection subsections
 13 (1)(d) and (1)(e) is taxed at one-half the taxable
 14 percentage rate "P" established in subsection (2)(a);

15 (3) Until January 17, 1986, the taxable percentage rate
 16 "P" for class four property is 8.55%.

17 (4) Prior to July 17, 1986, the department of revenue
 18 shall determine the taxable percentage rate "P" applicable
 19 to class four property for the revaluation cycle beginning
 20 January 17, 1986 as follows:

21 (a) The director of the department of revenue shall
 22 certify to the governor before July 17, 1986, the percentage
 23 by which the appraised value of all property in the state
 24 classified under class four as of January 17, 1986, has
 25 increased due to the revaluation conducted under 15-7-111.

1 This figure is the certified statewide percentage increase
 2 (b) The taxable value of property in class four is
 3 determined as a function of the certified statewide
 4 percentage increase in accordance with the table shown
 5 below:

6 (c) This table limits the statewide increase in
 7 taxable valuation resulting from reappraisal to 8% in
 8 calculating the percentage increase; the department may not
 9 consider changes resulting from new construction, additions,
 10 or deletions during calendar year 1985:

11 (d) The taxable percentage must be calculated by
 12 interpolation to coincide with the nearest whole number
 13 certified statewide percentage increase from the following
 14 table:

| 15 Certified-Statewide | Class-Four-Taxable |
|------------------------|---------------------------|
| 16 Percentage-Increase | Percentage-% ^u |
| 17 0 | 8.55 |
| 18 10 | 7.77 |
| 19 20 | 7.12 |
| 20 30 | 6.57 |
| 21 40 | 6.10 |
| 22 50 | 5.70 |
| 23 60 | 5.34 |
| 24 70 | 5.02 |
| 25 80 | 4.75 |

| 1 Certified-Statewide | Class-Four-Taxable |
|--|---------------------------|
| 2 Percentage-Increase | Percentage-% ^u |
| 3 90 | 4.50 |
| 4 100 | 4.27 |
| 5 110 | 4.07 |
| 6 120 | 3.88 |
| 7 130 | 3.71 |
| 8 140 | 3.56 |
| 9 150 | 3.42 |
| 10 160 | 3.28 |
| 11 170 | 3.16 |
| 12 180 | 3.05 |
| 13 190 | 2.94 |
| 14 200 | 2.85 |
| 15 210 | 2.75 |
| 16 220 | 2.67 |
| 17 230 | 2.59 |
| 18 240 | 2.51 |
| 19 250 | 2.44 |
| 20 260 | 2.37 |
| 21 270 | 2.31 |
| 22 280 | 2.25 |
| 23 290 | 2.19 |
| 24 300 | 2.13 |
| 25 (5)(3) After July 17, 1986, no adjustment may be made | |

1 by the department to the taxable percentage rate "P"
 2 established in subsection (2)(a) until a revaluation has
 3 been made as provided in 15-7-111.

4 (6)(4) Within the meaning of comparable property as
 5 defined in 15-1-1017 property assessed as commercial
 6 property is comparable only to other property assessed as
 7 commercial property, and property assessed as other than
 8 commercial property is comparable only to other property
 9 assessed as other than commercial property."

10 Section 4. Section 15-6-142 MCA is amended to read:

11 "15-6-142. Class twelve property description
 12 taxable percentage. (1) Class twelve property includes:

13 (a) a trailer or mobile home used as a residence
 14 except when:

15 (i) held by a distributor or dealer of trailers or
 16 mobile homes as his stock in trade; or

17 (ii) specifically included in another class;

18 (b) the first \$35,000 or less of the market value of a
 19 trailer or mobile home used as a residence and actually
 20 occupied for at least 10 months a year as the primary
 21 residential dwelling of any person whose total income from
 22 all sources including otherwise tax exempt income of all
 23 types is not more than \$10,000 for a single person or
 24 \$12,000 for a married couple;

25 (2) Class twelve property is taxed as follows:

1 (a) Property described in subsection (1)(a) that is
 2 not of the type described in subsection (1)(b) is taxed at
 3 the taxable percentage rate "P" described in 15-6-134,
 4 3.86% of its market value;

5 (b) Property described in subsection (1)(b) is taxed
 6 at the taxable percentage rate "P" described in 15-6-134,
 7 3.86% of its market value multiplied by a percentage figure
 8 based on income and determined from the table established in
 9 subsection (2)(b) of 15-6-134."

10 ~~SECTION 3. SECTION 15-6-135 MCA IS AMENDED TO READ:~~

11 "15-6-135. Class five property description
 12 taxable percentage. (1) Class five property includes:

13 (a) all property used and owned by cooperative rural
 14 electrical and cooperative rural telephone associations
 15 organized under the laws of Montana, except property owned
 16 by cooperative organizations described in subsection (1)(c)
 17 of 15-6-137;

18 (b) air and water pollution control equipment as
 19 defined in this section;

20 (c) new industrial property as defined in this
 21 section;

22 (d) any personal or real property used primarily in
 23 the production of gasoline during construction and for the
 24 first 3 years of its operation;

25 (e) all land and improvements and all personal

property-owned-by-a-research-and-development-firm, provided that the property is actively devoted to research and development.

(2)(a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4)(a) "New industry" means any person, corporation, firm, partnership, association, or other group that

establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget.

(5) New industrial property does not include:

(a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;

(b) a plant that will create adverse impact on existing state, county, or municipal services; or

(c) property used or employed in any industrial plant that has been in operation in this state for 3 years or

1 longer.

2 ~~(6)--Class--five--property--is--taxed--at--3%--of--its--market~~
3 ~~value."~~

4 SECTION 3. SECTION 15-6-135, MCA, IS AMENDED TO READ:

5 "15-6-135. Class five property -- description --
6 taxable percentage. (1) Class five property includes:

7 (a) all property used and owned by cooperative rural
8 electrical and cooperative rural telephone associations
9 organized under the laws of Montana, except property owned
10 by cooperative organizations described in subsection (1)(c)
11 of 15-6-137;

12 (b) air and water pollution control equipment as
13 defined in this section;

14 (c) new industrial property as defined in this
15 section;

16 (d) any personal or real property used primarily in
17 the production of gasohol during construction and for the
18 first 3 years of its operation;

19 (e) all land and improvements and all personal
20 property owned by a research and development firm, provided
21 that the property is actively devoted to research and
22 development.

23 (2) (a) "Air and water pollution equipment" means
24 facilities, machinery, or equipment used to reduce or
25 control water or atmospheric pollution or contamination by

1 removing, reducing, altering, disposing, or storing
2 pollutants, contaminants, wastes, or heat. The department of
3 health and environmental sciences shall determine if such
4 utilization is being made.

5 (b) The department of health and environmental
6 sciences' determination as to air and water pollution
7 equipment may be appealed to the board of health and
8 environmental sciences and may not be appealed to either a
9 county tax appeal board or the state tax appeal board.
10 However, the appraised value of the equipment as determined
11 by the department of revenue may be appealed to the county
12 tax appeal board and the state tax appeal board.

13 (3) "New industrial property" means any new industrial
14 plant, including land, buildings, machinery, and fixtures,
15 used by new industries during the first 3 years of their
16 operation. The property may not have been assessed within
17 the state of Montana prior to July 1, 1961.

18 (4) (a) "New industry" means any person, corporation,
19 firm, partnership, association, or other group that
20 establishes a new plant in Montana for the operation of a
21 new industrial endeavor, as distinguished from a mere
22 expansion, reorganization, or merger of an existing
23 industry.

24 (b) New industry includes only those industries that:
25 (i) manufacture, mill, mine, produce, process, or

1 fabricate materials;

2 (ii) do similar work, employing capital and labor, in
3 which materials unserviceable in their natural state are
4 extracted, processed, or made fit for use or are
5 substantially altered or treated so as to create commercial
6 products or materials; or

7 (iii) engage in the mechanical or chemical
8 transformation of materials or substances into new products
9 in the manner defined as manufacturing in the 1972 Standard
10 Industrial Classification Manual prepared by the United
11 States office of management and budget.

12 (5) New industrial property does not include:

13 (a) property used by retail or wholesale merchants,
14 commercial services of any type, agriculture, trades, or
15 professions;

16 (b) a plant that will create adverse impact on
17 existing state, county, or municipal services; or

18 (c) property used or employed in any industrial plant
19 that has been in operation in this state for 3 years or
20 longer.

21 (6) Class five property is taxed at 3% of its market
22 value."

23 Section 4. Section 15-31-101, MCA, is amended to read:

24 "15-31-101. Organizations subject to tax. (1) The term
25 "corporation" includes associations, joint-stock companies,

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

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

9 ~~Every--corporation,--except--as--hereinafter--provided~~
10 ~~and--except~~ Except as provided in [section 1] or 33-2-705(6),
11 ~~or as may be otherwise specifically provided, every~~
12 ~~corporation~~ engaged in business in the state of Montana
13 shall annually pay to the state treasurer as a license fee
14 for the privilege of carrying on business in this state such
15 percentage or percentages of its total net income for the
16 preceding taxable year at the rate hereinafter set forth. In
17 the case of corporations having income from business
18 activity which is taxable both within and without this
19 state, the license fee shall be measured by the net income
20 derived from or attributable to Montana sources as
21 determined under part 3. This tax is due and payable on the
22 15th day of the 5th month following the close of the taxable
23 year of the corporation; however, the tax becomes a lien as
24 provided in this chapter on the last day of the taxable year
25 in which the income was earned and is for the privilege of

1 carrying on business in this state for the taxable year in
2 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 5. 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 corporation
14 license tax shall be applied to all corporations subject to
15 taxation under part 1 of this chapter. ~~The~~ Except as
16 provided in subsection (2), the income tax provided by this
17 part shall be applied to corporations that are not taxable
18 under part 1 of this chapter but are taxable under an income
19 tax.

20 (2) During its first 5 TAXABLE years of activity IN
21 MONTANA, THE NET INCOME EARNED FROM RESEARCH AND DEVELOPMENT
22 ACTIVITIES BY a research and development firm as described
23 in [section 1] is not subject to either the corporation
24 license tax provided in part 1 of this chapter or to the
25 corporation income tax provided in this part."

1 Section 6. Section 15-31-403, MCA, is amended to read:

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

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

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

13 NEW SECTION. Section 7. Extension of authority. Any
14 existing authority of the department of revenue to make
15 rules on the subject of the provisions of this act is
16 extended to the provisions of this act.

17 NEW SECTION. Section 8. Codification instruction.
18 Section 1 is intended to be codified as an integral part of
19 Title 15, chapter 31, and the provisions of Title 15 apply
20 to section 1.

21 NEW SECTION. Section 9. Effective date. This act is
22 effective July 1, 1987.

-End-