

1 *Senate* BILL NO. 381  
 2 INTRODUCED BY *Fasbender*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW CITIES TO  
 5 IMPOSE A PAYROLL INCOME TAX; AMENDING SECTION 84-4906,  
 6 R.C.M. 1947; PROVIDING AN EFFECTIVE DATE."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Title. This act may be cited as the  
 10 "Uniform City Income Tax Law".

11 Section 2. Definitions. (1) "Resident". A resident  
 12 of a city is an individual who is domiciled in the city  
 13 unless he maintains no permanent place of abode in the city  
 14 and does maintain a permanent place of abode elsewhere and  
 15 spends in the aggregate not more than thirty (30) days of  
 16 the taxable year in the city; or who is not domiciled in the  
 17 city but maintains a permanent place of abode in the city  
 18 and spends in the aggregate more than one hundred  
 19 eighty-three (183) days of the taxable year in the city.

20 (2) "Nonresident" is anyone who is not a resident.

21 (3) "Taxpayer" is as defined in section 84-4901.

22 (4) "Taxable year" is as defined in section 84-4901.

23 Section 3. Authorization. Any city is authorized to  
 24 impose a local income tax on its residents, and on all other  
 25 natural persons earning or receiving income from economic

1 activities carried out in the city at a rate not less than  
 2 ten percent (10%) of the state income tax liability nor more  
 3 than twenty percent (20%) of the state income tax liability,  
 4 provided that the rate adopted is evenly divisible by five  
 5 (5).

6 Section 4. Certification and withdrawal of the local  
 7 income tax. (1) Any city enacting an income tax pursuant  
 8 to this act, shall certify at least one hundred twenty (120)  
 9 days in advance to the department of revenue the effective  
 10 date of the ordinance imposing an income tax, the rate of  
 11 the tax for the entire fiscal year, and the date when the  
 12 enactment becomes effective.

13 (2) A city imposing an income tax within the  
 14 provisions of this act may repeal its income tax only after  
 15 first giving at least one hundred twenty (120) days notice  
 16 of the contemplated repeal of its income tax to the  
 17 department of revenue. The withdrawal shall be effective  
 18 from and after the first day of the next calendar year.

19 Section 5. State administration of the local income  
 20 tax. The income tax authorized under the provisions of this  
 21 act in any city shall be administered by the department of  
 22 revenue. Revenues collected under local income taxes shall  
 23 be accounted for separately and shall be paid into a  
 24 separate fund to be distributed to the cities imposing such  
 25 taxes after deducting an amount to cover necessary

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1 expenditures incurred by the department of revenue in  
 2 administering the local income taxes. The rules promulgated  
 3 in accordance with the state income tax shall apply to the  
 4 local income taxes except when, in the judgment of the  
 5 department, such rules would be inconsistent or not feasible  
 6 of proper administration. The department is authorized to  
 7 make any refunds to taxpayers pursuant to this act.

8 Section 6. Taxation of local nonresidents. In the  
 9 case of the nonresident, the local income tax liability  
 10 shall be limited solely to his place of employment provided  
 11 such jurisdiction imposes a local income tax. One-half  
 12 (1/2) of the tax imposed by the jurisdiction of employment  
 13 shall be credited by the department of revenue to the  
 14 nonresident's city of residence provided such city also  
 15 imposes the local income tax. In the event the nonresident  
 16 lives in a city that does not impose a tax but earns income  
 17 in a city that does impose a tax the department of revenue  
 18 shall credit the total net proceeds of the nonresident's tax  
 19 liability exclusively to the city of employment. In the  
 20 event the nonresident works in a city that does not impose a  
 21 local income tax, but resides in a city which does impose  
 22 such a tax, the department shall credit the proceeds of the  
 23 commuter tax liability exclusively to the jurisdiction of  
 24 residence.

25 Section 7. Credit for income tax paid to another state

1 or a political subdivision of another state. A resident  
 2 individual shall be allowed a credit against the tax  
 3 otherwise due under this act for the amount of any income  
 4 tax paid by him for the taxable year to another state of the  
 5 United States or a political subdivision thereof or the  
 6 District of Columbia on income derived from sources therein  
 7 and which is also subject to tax under this act.

8 Section 8. Distribution of collections among local  
 9 governments. All sums collected pursuant to this act shall  
 10 be credited to a special local income tax fund which is  
 11 established in the state treasury. After deducting the  
 12 amount of refunds made, a reserve for expected or  
 13 anticipated refunds, and the costs of administering the tax,  
 14 the remaining sums shall be returned by the department of  
 15 revenue to the city of origin by the fifteenth day of the  
 16 month following the month during which such sums were  
 17 collected.

18 Section 9. Section 84-4906, R.C.M. 1947, is amended to  
 19 read as follows:

20 "84-4906. Deductions allowed in computing net income.  
 21 In computing net income, there shall be allowed as  
 22 deductions:

23 (a) The items referred to in sections 161 and 211 of  
 24 the Internal Revenue Code of 1954, or as sections 161 and  
 25 211 shall be labeled or amended, except that state income

1 tax paid shall not be deductible and also subject to the  
2 exceptions provided in section 84-4909, relating to items  
3 not deductible.

4 (b) Federal income tax paid within the taxable year.

5 (c) Income tax paid to a city within the taxable  
6 year."

7 Section 10. Severability. If a part of this act is  
8 invalid, all valid parts that are severable from the invalid  
9 part remain in effect. If a part of this act is invalid in  
10 one or more of its applications, the part remains in effect  
11 in all valid applications that are severable from the  
12 invalid applications.

13 Section 11. Effective date. This act is effective  
14 January 1, 1976.

-End-

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## STATE OF MONTANA

REQUEST NO. 178-75

## FISCAL NOTE

Form BD-15

In compliance with a written request received Feb. 7, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 381 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

An act to allow cities to impose an income tax on residents and all other persons earning or receiving income from economic activities carried out in the city. The act is effective January 1, 1976.

## ASSUMPTIONS:

1. There would be increased administrative costs to the Department of Revenue; additional personnel, operating expenses and equipment would be needed.
2. City means any incorporated city or town.
3. Persons residing and working outside the city limits would not be taxed.
4. Cities are allowed to set rates for a fiscal year at 10, 15, or 20% of state tax liability. Presumably, FY77 rates would be a percentage of CY76 tax liability.

## FISCAL IMPACT:

Income tax collections are not currently identified by area. Eliminating only tax collections on farm income would overstate the estimated revenue collections by cities under assumption No. 3. Thus, it is not possible to project the amount of revenue to cities generated under this act. Increase in state expenditures are estimated as follows:

	FY76 (Jan 1-June 30)	FY77
Increase in expenditure by category		
Personal services	\$ 43,765	\$104,410
Operating expenses	80,575	169,200
Capital outlay	<u>9,857</u>	<u>1,900</u>
Total increase in expenditures	<u>\$134,197</u>	<u>\$275,510</u>

## CONCLUSION:

Enactment of SB 381 would result in an increase in state expenditures of approximately \$410,000 in the 75-77 biennium. Administrative expenses are to be deducted from revenue collections under SB 381. Thus, the revenue to the cities would be reduced by that amount. In addition, since city tax is allowed as a deduction for state tax purposes, state income tax collections will be reduced by an amount equal to the total city tax collections times the effective state tax rate.

## TECHNICAL NOTE:

SB 381 allows city tax to be deducted for state income tax purposes. The city tax rate is set at a percent of state tax liability. It is not specified whether the city tax percentage of state tax will be applied on the tax liability before or after such deduction.

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BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/13/75