

1 *Senate* BILL NO. *382*  
 2 INTRODUCED BY *Watt Tasbender*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL THE SOLVENT  
 5 CREDIT PROPERTY TAX AND IMPOSE IN LIEU THEREOF AN INCOME  
 6 SURTAX UPON CERTAIN INTANGIBLE PROPERTY, AMENDING SECTIONS  
 7 84-4901, AND 84-301, R.C.M. 1947."

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

10 Section 1. Section 84-301, R.C.M. 1947, is amended to  
 11 read as follows:

12 "84-301. Classification of property for taxation. For  
 13 the purpose of taxation the taxable property in the state  
 14 shall be classified as follows:

15 Class One. The annual net proceeds of all mines and  
 16 mining claims, after deducting only the expenses specified  
 17 and allowed by section 84-5403; also where the right to  
 18 enter upon land, to explore or prospect, or dig for oil,  
 19 gas, coal or mineral is reserved in land or received by  
 20 mesne conveyance (exclusive of leasehold interests), devise  
 21 or succession by any person or corporation, the surface  
 22 title to which has passed to or remains in another, the  
 23 state department of revenue shall determine the value of the  
 24 right to enter upon said tract of land for the purpose of  
 25 digging, exploring, or prospecting for gas, oil, coal or

1 minerals, and the same shall be placed in this  
 2 classification for the purpose of taxation.

3 Class Two. All agricultural and other tools,  
 4 implements and machinery, gas and other engines and boilers,  
 5 threshing machines and outfits used therewith, automobiles,  
 6 motor trucks and other power-driven cars, vehicles of all  
 7 kinds except mobile homes, boats and all watercraft,  
 8 harness, saddlery and robes and except as provided in Class  
 9 Five (b) of this section, all poles, lines, transformers,  
 10 transformer stations, meters, tools, improvements, machinery  
 11 and other property used and owned by all persons, firms,  
 12 corporations, and other organizations which are engaged in  
 13 the business of furnishing telephone communications,  
 14 exclusively to rural areas, or to rural areas and cities and  
 15 towns provided that any such city or town has a population  
 16 of eight hundred (800) persons or less; and provided  
 17 further, that the average circuit miles for each station on  
 18 the system is more than one and one-quarter (1 1/4) miles.

19 Class Three. Livestock, poultry and unprocessed  
 20 products of both; stocks of merchandise of all sorts,  
 21 together with furniture and fixtures used therewith, except  
 22 mobile homes; and all office or hotel furniture and  
 23 fixtures.

24 Class Four. (a) All land, town and city lots, with  
 25 improvements, and all trailers affixed to land owned,

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1 leased, or under contract or purchase by the trailer owner,  
2 manufacturing and mining machinery, fixtures and supplies,  
3 except as otherwise provided by the constitution of Montana,  
4 and except as such property may be included in Class Five,  
5 Class Seven or Class Eight.

6 (b) Mobile homes without regard to the ownership of the  
7 land upon which they are situated, except those held by a  
8 distributor or dealer of mobile homes as part of his stock  
9 in trade, and except as such property may be included in  
10 Class Eight.

11 Class Five. ~~(a) All moneys and credits, secured or~~  
12 ~~unsecured, including all state, county, school district and~~  
13 ~~other municipal bonds, warrants and securities, without any~~  
14 ~~deduction or offset, provided, however, that the terms~~  
15 ~~"moneys and credits" as herein used shall not embrace the~~  
16 ~~moneyed capital employed in the banking business by any~~  
17 ~~banking corporation or individual in this state.~~

18 ~~(b)~~ (a) All poles, lines, transformers, transformer  
19 stations, meters, tools, improvements, machinery and other  
20 property used and owned by co-operative rural electrical and  
21 co-operative rural telephone associations organized under  
22 the laws of Montana except those within the incorporated  
23 limits of a city or town in which less than ninety-five per  
24 cent (95%) of the electric consumers and/or telephone users  
25 are served by a co-operative organization, and as to the

1 property enumerated in this sub-section (b) within  
2 incorporated limits of a city or town in which less than  
3 ninety-five per cent (95%) of the electric consumers or  
4 users will be served by a co-operative organization, such  
5 property shall be put in Class Two.

6 ~~(e)~~ (b) All unprocessed agricultural products either  
7 on the farm or in storage, irrespective of whether said  
8 products are owned by the elevator, warehouse or flour mill  
9 owner or company storing the same, or any other person  
10 whomsoever, except all perishable fruits and vegetables in  
11 farm storage and owned by the producer, and excepting  
12 livestock and poultry and the unprocessed products of both.

13 ~~(d)~~ (c) The dwelling house, and the lot on which it is  
14 erected, owned and occupied by any resident of the state,  
15 who has been honorably discharged from active service in any  
16 branch of the armed forces, who is rated one hundred per  
17 cent (100%) disabled due to a service-connected disability  
18 by the United States veterans administration or its  
19 successors.

20 In the event of the veteran's death, the dwelling  
21 house, and the lot on which it is erected, so long as the  
22 widow remains unmarried and the owner and occupant of the  
23 property, shall remain within this classification.

24 Class Six. Property formerly included in this class is  
25 now classified by section 84-308, R.C.M. 1947.

1       Class Seven. (a) All new industrial property. New  
 2 industrial property shall mean any new industrial plant,  
 3 including land, buildings, machinery and fixtures which, in  
 4 the determination of the state department of revenue, is  
 5 used by a new industry during the first three (3) years of  
 6 operation not having been assessed prior to July 1, 1961,  
 7 within the state of Montana. New industry shall mean any  
 8 person, corporation, firm, partnership, association, or  
 9 other group which establishes a new plant or plants in this  
 10 state for the operation of a new industrial endeavor, as  
 11 distinguished from a mere expansion, reorganization, or  
 12 merger of an existing industry or industries. Provided,  
 13 however, that new industrial property shall be limited to  
 14 industries that manufacture, mill, mine, produce, process or  
 15 fabricate materials, or do similar work in which capital and  
 16 labor are employed and in which materials unserviceable in  
 17 their natural state are extracted, processed or made fit for  
 18 use or are substantially altered or treated so as to create  
 19 commercial products or materials; and in no event shall the  
 20 term new industrial property be included to mean property  
 21 used by retail or wholesale merchants, commercial services  
 22 of any type, agriculture, trades or professions. And  
 23 provided further, that new industrial property shall not be  
 24 included to mean property which is used or employed in any  
 25 industrial plant which has been in operation in this state

1       for three (3) years or longer. Any person, corporation,  
 2 firm, partnership, association or other group seeking to  
 3 qualify its property for inclusion in this class shall make  
 4 application to the state department of revenue in such  
 5 manner and form as may be required by said department.

6       Class Eight. Any improvement on real property,  
 7 trailers affixed to land or mobile home belonging to any  
 8 person who qualifies under any one or more of the  
 9 hereinafter set forth categories, valued at not more than  
 10 seventeen thousand five hundred dollars (\$17,500), which is  
 11 owned or under a contract for deed, and which is actually  
 12 occupied by:

13       (1) a widow sixty-two (62) years of age or older,  
 14 whether with or without minor dependent children, who  
 15 qualifies under the income limitations of (4), or

16       (2) a widower sixty-five (65) years of age or older,  
 17 whether with or without minor dependent children, who  
 18 qualifies under the income limitations of (4), or

19       (3) a widow with minor or dependent children regardless  
 20 of age, who qualifies under the income limitations of (4),  
 21 or

22       (4) a recipient of retirement benefits whose income  
 23 from all sources is not more than four thousand dollars  
 24 (\$4,000) for a single person and five thousand two hundred  
 25 dollars (\$5,200) for a married couple per annum. Provided,

1 further, that one who applies for classification of property  
 2 under this class must make an affidavit to the state  
 3 department of revenue on a form as may be provided by the  
 4 state department of revenue supplied without cost to the  
 5 applicant, as to his income, if applicable, as to his  
 6 retirement benefits, if applicable, or, as to his marital  
 7 status, if applicable, and to the fact that he or she  
 8 actually occupies such improvements with right of the county  
 9 welfare board to investigate the applicant, on the  
 10 completion of the form, as to answers given on the form.  
 11 Provided, further, that the value of said property shall not  
 12 increase during the life of the recipient of retirement  
 13 benefits or widow or widower covered under this class. For  
 14 purposes of the affidavit required for classification of  
 15 property under this class, it shall be sufficient if the  
 16 applicant signs a statement swearing to or affirming the  
 17 correctness of the information supplied, whether or not the  
 18 statement is signed before a person authorized to administer  
 19 oaths, and mails the application and statement to the  
 20 department of revenue. This signed statement shall be  
 21 treated as a statement under oath or equivalent affirmation  
 22 for purposes of section 94-7-203, R.C.M. 1947, relating to  
 23 the criminal offense of false swearing.

24 Class Nine. All property not included in the eight (8)  
 25 preceding classes."

1 Section 2. Section 34-4901, R.C.M. 1947, is amended to  
 2 read as follows:

3 "34-4901. Income tax--definitions. For the purpose of  
 4 this act unless otherwise required by the context:

5 (1) The word "department" means the state department of  
 6 revenue.

7 (2) The word "taxpayer" includes any person or  
 8 fiduciary, resident or nonresident, subject to a tax imposed  
 9 by this act, and does not include corporations.

10 (3) The term "taxable year" means the taxpayer's  
 11 taxable year for federal income tax purposes.

12 (4) The word "fiduciary" means a guardian, trustee,  
 13 executor, administrator, receiver, conservator, or any  
 14 person whether individual or corporate, acting in any  
 15 fiduciary capacity for any person, trust or estate.

16 (5) The word "paid" for the purposes of the deductions  
 17 and credits under this act means paid or accrued or paid or  
 18 incurred, and the terms "paid or incurred" and "paid or  
 19 accrued" shall be construed according to the method of  
 20 accounting upon the basis of which the taxable income is  
 21 computed under this act. The term "received" for the  
 22 purpose of computation of taxable income under this act,  
 23 means received or accrued and the term "received or accrued"  
 24 shall be construed according to the method of accounting  
 25 upon the basis of which the taxable income is computed under

1 this act.

2 (6) The word "resident" applies only to natural persons  
3 and includes for the purpose of determining liability to the  
4 tax imposed by this act with reference to the income of any  
5 taxable year, any person domiciled in the state of Montana,  
6 and any other person who maintains a permanent place of  
7 abode within the state even though temporarily absent from  
8 the state and has not established a residence elsewhere.

9 (7) The word "dividend" means any distribution made by  
10 a corporation out of its earnings or profits to its  
11 shareholders or members, whether in cash or in other  
12 property or in stock of the corporation, other than stock  
13 dividends as herein defined. "Stock dividends" means new  
14 stock issued, for surplus or profits capitalized, to  
15 shareholders in proportion to their previous holdings.

16 (8) The words "foreign country" or "foreign government"  
17 mean any jurisdiction other than the one embraced within the  
18 United States, its territories and possessions.

19 (9) The words "information agents" include all  
20 individuals, corporations, associations and partnerships, in  
21 whatever capacity acting, including lessees, or mortgagors  
22 of real or personal property, fiduciaries, employers, and  
23 all officers and employees of the state, or of any municipal  
24 corporation or political subdivision of the state, having  
25 the control, receipt, custody, disposal or payment of

1 interest, rent, salaries, wages, premiums, annuities,  
2 compensations, remunerations, emoluments, or other fixed or  
3 determinable annual or periodical gains, profits and income  
4 with respect to which any person or fiduciary is taxable  
5 under this act.

6 (10) The term "net income" means the adjusted gross  
7 income of a taxpayer less the deductions allowed by this  
8 act.

9 (11) The term "taxable income" means the adjusted gross  
10 income of a taxpayer less the deductions and exemptions  
11 provided for in this act.

12 (12) The term "intangible property" means savings  
13 accounts; life insurance reserves; pension reserves not  
14 exempted by statute; United States government securities;  
15 state and local government securities; corporate and foreign  
16 bonds and corporate stocks; and shares of banks, both  
17 national and state chartered."

18 Section 3. There is a new R.C.M. section that reads as  
19 follows:

20 Imposition of tax upon income derived from certain  
21 intangible property. There is imposed a tax at an annual  
22 rate of five percent (5%) upon the gross income derived from  
23 intangible property as that term is defined in section  
24 84-4901 (12), notwithstanding the exemption of section  
25 84-4905 (2) (a), held by every natural person, corporation,

1 association, or partnership residing in, doing business in,  
2 or incorporated in the state of Montana. This tax is not a  
3 state income tax but is a tax for local purposes paid in  
4 lieu of property taxes formerly levied upon intangible  
5 property.

6 Section 4. There is a new R.C.M. section that reads as  
7 follows:

8 Administration of tax upon intangible property --  
9 income-- disposition of the revenue received. The department  
10 of revenue shall administer the tax imposed by section [3 of  
11 this act] and provide for the distribution of all moneys  
12 received therefrom to the county in which the individual has  
13 paid the tax, and in the case of a corporation, the county  
14 in which the corporation has its principal place of  
15 business. However, if such corporation is a public utility  
16 operating in more than one (1) county, the tax paid by such  
17 corporation shall be apportioned to each county served in an  
18 amount equal to that county's share of the total population  
19 served by the utility.

20 Section 5. There is a new R.C.M. section that reads as  
21 follows:

22 Tax is in addition to other taxes. The tax imposed by  
23 this act upon the income derived from intangible property as  
24 defined in section 84-4901 (12) is in addition to all other  
25 taxes upon income, and is in lieu of property taxes thereon.

1 Section 6. There is a new R.C.M. section numbered  
2 84-1504.1 that reads as follows:

3 84-1504.1. Imposition of tax upon income from  
4 intangible property held by corporations. A corporation  
5 liable for taxes under this chapter is also liable for the  
6 tax on intangible property income imposed by section [3 of  
7 this act], as a payment to local governments in lieu of  
8 property taxes formerly levied upon intangible property.

9 Section 7. There is a new R.C.M. section numbered  
10 84-6903.1 that reads as follows:

11 84-6903.1. Imposition of tax upon income from  
12 intangible property held by corporations. A corporation  
13 liable for taxes under this chapter is also liable for the  
14 tax on intangible property income imposed by section [3 of  
15 this act], as a payment to local governments in lieu of  
16 property taxes formerly levied upon intangible property.

-End-

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 14, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 382 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:

Senate Bill 382 contains two major provisions: (1) eliminates solvent credits from property taxation and (2) imposes an income surtax of 5% upon the income derived from certain intangible property.

## ASSUMPTIONS:

- Solvent credits assessed locally will be \$23.4 million for public utilities and \$57.4 million for all others.
- Public utilities' solvent credits assessed locally are deducted from unit assessment made at the state level for property tax purposes. At the local level, solvent credits are taxed at 7% of assessed value; at the state level, public utility property is taxed at 40% of assessed value. Thus, under the proposed law, the taxable value of public utilities property will increase.
- The increase in taxable value of public utilities property will be \$9.36 million and the decrease in taxable value of solvent credits will be \$5.66 million, for a net increase of \$3.70 million in taxable value.
- Data are not available in the time allowed a fiscal note to estimate the income from intangible property as defined under Senate Bill 382.
- Six mills will be levied for universities in FY 76 and FY 77. As much as eight additional mills may be necessary in support of public school permissive levy in FY 77. Assume an average 219 mill levy for local government.

## FISCAL IMPACT:

	FY 76	FY 77	FY 77
(1) To eliminate solvent credits from property taxation:	6 mill levy	if 6 mill levy	if 14 mill levy
Increase in state property tax collections under proposed law	\$ 22,200	\$ 22,200	\$ 51,800
Increase in local property tax collections under proposed law	\$810,300	\$810,300	\$810,300

## (2) To impose an income surtax of 5% upon the income derived from intangible property:

No quantifiable estimate of the revenue which can be expected as a result of the surtax can be provided in the time allowed.

The state of Ohio with a similar tax of 5% on income from intangible property realizes 3% of total state revenue collections from such tax. If such a return would be applicable to Montana, revenue generated under the surtax would total approximately \$34.5 million in the 1975-77 biennium. All revenues raised under the surtax will be returned to the counties.

## CONCLUSION:

Elimination of solvent credits from property taxation would result in an increase in revenue to the state of \$44,400 to \$74,000 and an increase to local governments of \$1,620,600.

## TECHNICAL NOTE:

- Sections 84-302, 84-307, and 84-308, R.C.M. 1947, all relate to the property taxation of moneys and credits and should be repealed or amended.
- Section 84-101 defines property to include moneys, credits, bonds, and stocks. Unless Section 84-202 (exemptions from taxation) is amended to include solvent credits, they would be considered as Class Nine property which is all property not included in the eight preceding classes. The fiscal impact estimate assumed this change would be made.

*Michael Spillings*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 19, 1975