

1 HOUSE BILL NO. 472

2 INTRODUCED BY G. HENDRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A TAX REFORM STUDY COMMITTEE TO EXAMINE
5 THE STATE'S EXISTING TAX SYSTEM AND TO CONSIDER ALTERNATIVE FORMS OF TAXATION THAT
6 PROTECT THE CONSTITUTIONAL RIGHT OF MONTANA CITIZENS TO ACQUIRE, POSSESS, AND
7 PROTECT PROPERTY; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A
8 TERMINATION DATE."

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10 WHEREAS, Article II, section 3, of the Montana Constitution establishes that "All persons are born free
11 and have certain inalienable rights", including the right of "acquiring, possessing and protecting property"; and

12 WHEREAS, common law maintains that a constitutional right that is regulated or taxed is not a right but
13 a privilege; and

14 WHEREAS, Montana's tax system potentially abrogates Montana citizens' property rights to all types of
15 income, labor, intellectual property, personal property, real estate, and other property; and

16 WHEREAS, Montana's tax system poses the unconstitutional threat of confiscation of property because
17 of nonpayment of taxes; and

18 WHEREAS, it is the duty of the Montana Legislature and the citizens and businesses of the state to
19 devise a tax system that guarantees that Montana citizens retain their right to acquiring, possessing, and
20 protecting property.

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

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24 NEW SECTION. **Section 1. Tax reform study committee.** (1) (a) There is an interim tax reform study
25 committee created to study tax reform that may include eliminating parts or all of the existing tax structure and
26 considering alternative forms of taxation. The members must include:

27 (i) two senators, one from the majority party and one from the minority party, appointed by the committee
28 on committees;

29 (ii) two representatives, one appointed by the speaker and one appointed by the minority leader;

30 (iii) four representatives of the Montana citizenry, two appointed by the committee on committees of the

- 1 senate, one appointed by the speaker of the house, and one appointed by the minority leader of the house; and
- 2 (iv) the following members appointed by the governor:
- 3 (A) one representative of small business;
- 4 (B) one representative of large industry;
- 5 (C) one representative of labor; and
- 6 (D) one representative of agriculture.
- 7 (b) The members of the committee shall select a presiding officer and may appoint other officers as
- 8 considered necessary.
- 9 (c) The committee shall adopt rules of procedure for conducting meetings.
- 10 (2) The purpose of the committee is to conduct a comprehensive examination of taxation in Montana.
- 11 The committee shall:
- 12 (a) develop an inventory of taxes imposed at the state and local level, including but not limited to:
- 13 (i) the taxation of property;
- 14 (ii) the taxation of individual and corporation income;
- 15 (iii) excise and use taxes; and
- 16 (iv) taxation of natural resource production, including energy production and transmission;
- 17 (b) provide analyses that evaluate existing taxes in terms of:
- 18 (i) their effect on citizens' constitutional right to own property;
- 19 (ii) their effect on individual and business decisions;
- 20 (iii) simplicity, adequacy, efficiency, burden or incidence, and fairness;
- 21 (iv) the methods and costs of collection, administration, and compliance;
- 22 (c) examine alternative methods of taxation from existing sources, as well as different sources of
- 23 revenue, with a particular examination of replacing some or all of the existing state and local taxes with an excise
- 24 tax on the final sale of goods and services entering the economy for the first time and with a tax on income from
- 25 investments related to commerce, and evaluate the alternative methods and different sources:
- 26 (i) according to the criteria described in subsection (2)(b);
- 27 (ii) on the efficiency of the government directly collecting the different source or sources of tax revenue;
- 28 (iii) to determine whether a different system of taxation would eliminate the need for taxpayer
- 29 recordkeeping and reporting to the government;
- 30 (iv) concerning the types of taxes that can be legitimately avoided; and

1 (d) solicit the knowledge and advice of economists, constitutional law experts on property rights, tax
2 policy experts, and representatives of taxpayer groups, local governments, small business organizations, large
3 industry, agriculture, forestry, and economic and business development organizations.

4 (3) The committee shall submit a written report to the legislature not later than November 1, 2012, that
5 must include recommendations and proposed legislation, if legislation is considered necessary, to provide tax
6 reform for Montana that protects the citizens' constitutional right to acquire, possess, and protect property.

7 (4) The committee is attached for administrative purposes only to the legislative services division to be
8 staffed by the legislative branch.

9 (5) (a) Nonlegislative members of the tax reform study committee must be reimbursed in accordance
10 with 2-18-501 through 2-18-503 for actual and necessary expenses incurred in attending meetings or conducting
11 committee business.

12 (b) Legislators serving on the committees must be reimbursed and compensated as provided for in
13 5-2-302 for actual and necessary expenses incurred in attending meetings or conducting committee business.

14 (6) The members of the committees created in this section must be appointed by July 1, 2011.

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16 **NEW SECTION. Section 2. Appropriation.** There is appropriated \$30,000 from the general fund to the
17 committee created in [section 1] for the biennium beginning July 1, 2011, for the operating expenses and
18 personnel expenses of the committee.

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20 **NEW SECTION. Section 3. Effective dates.** (1) Except as provided in subsection (2), [this act] is
21 effective on passage and approval.

22 (2) [Section 2] is effective July 1, 2011.

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24 **NEW SECTION. Section 4. Termination.** [This act] terminates December 31, 2012.

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