

HOUSE JOINT RESOLUTION NO. 61
INTRODUCED BY J. COHENOUR
BY REQUEST OF THE HOUSE TAXATION STANDING COMMITTEE

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO ASSESS THE CONFORMITY OF MONTANA'S INCOME TAX LAWS WITH FEDERAL INCOME TAX LAWS AND TO CONSIDER REORGANIZING CERTAIN PROVISIONS OF MONTANA'S INCOME TAX LAWS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 61ST LEGISLATURE.

WHEREAS, the Montana individual income tax is the largest source of general fund revenue; and

WHEREAS, the corporation license tax is a significant source of general fund revenue; and

WHEREAS, most states that impose individual income taxes and corporation net income taxes have laws that conform, to varying degrees, with federal income tax laws in the determination of gross income and the use of allowable deductions; and

WHEREAS, conformity with federal income tax laws facilitates both taxpayer compliance with and the administration of a state's income tax laws; and

WHEREAS, many states routinely enact conforming legislation with federal income tax laws; and

WHEREAS, a state's conforming legislation may also include provisions to "decouple" from certain elements of federal income tax laws; and

WHEREAS, Montana law provides that individual income taxes and corporation net income taxes are, for the most part, intricately tied to the Internal Revenue Code of 1986, as amended; and

WHEREAS, because Montana does not routinely enact conforming legislation with federal income tax laws, the state may be improperly delegating much of its tax policy and taxing authority to the federal government; and

WHEREAS, certain business activities in a state, including Montana, may be treated for state income tax purposes in ways that are different for federal income tax purposes; and

WHEREAS, the existing organizational structure of Montana's income tax laws may be confusing to taxpayers, tax preparers, and tax administrators alike; and

WHEREAS, the Montana Legislature finds that a study of Montana's conformity with federal income tax laws is long overdue.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim study committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

- (1) conduct a general review of federal income tax laws;
- (2) review Montana statutory provisions that conform with or are related to federal income tax laws and statutory provisions that do not conform with federal income tax laws and the reasons for nonconformity;
- (3) analyze the legal implications of Montana's income tax provisions as they relate to federal income tax laws;
- (4) review the extent of other states' conformity or nonconformity with federal income tax law;
- (5) review the differences between federal income tax laws and state income tax laws in the tax treatment of business activities; and
- (6) determine whether improvements may be made to Montana's income tax laws to give the state more control over its tax policy and taxing authority.

BE IT FURTHER RESOLVED, that the study may also consider whether consolidating or reorganizing certain provisions of Montana's income tax laws would provide for more transparency in the compliance with and the administration of the state's income tax laws.

BE IT FURTHER RESOLVED, that the study consider the views of:

- (1) certified public accountants;
- (2) tax attorneys;
- (3) taxpayer groups;
- (4) representatives of agricultural groups;
- (5) representatives of natural resource groups;
- (6) representatives of pass-through entities;
- (7) representatives of C corporations;
- (8) the department of revenue; and
- (9) other persons with knowledge of state and federal income tax laws.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded before September 15, 2008.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the committee, be reported to the 61st Legislature.

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