



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2027 Biennium

Bill#/Title: HB0382.01: Establish the specie legal tender act

Primary Sponsor: Tom Millett

Status: As Introduced

☐ Included in the Executive Budget

☐ Needs to be included in HB 2

☐ Significant Local Gov Impact

☐ Significant Long-Term Impacts

☒ Technical Concerns

☐ Dedicated Revenue Form Attached

### **FISCAL SUMMARY**

	<b><u>FY 2026 Difference</u></b>	<b><u>FY 2027 Difference</u></b>	<b><u>FY 2028 Difference</u></b>	<b><u>FY 2029 Difference</u></b>
<b>Expenditures</b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>Revenues</b>				
General Fund (01)	\$0	(\$368,000)	(\$333,000)	(\$355,000)
<b>Net Impact</b>	<u>\$0</u>	<u>(\$368,000)</u>	<u>(\$333,000)</u>	<u>(\$355,000)</u>
<b>General Fund Balance</b>				

### **Description of fiscal impact**

HB 382 makes gold and silver coin or bullion issued by the United States legal tender in Montana, and excludes the gains from the exchange of one form of legal tender for another from the state's individual income tax and any current or future sales taxes. The proposed bill will reduce general fund revenue by \$368,000 in FY 2027, \$333,000 in FY 2028 and \$355,000 in FY 2029.

### **FISCAL ANALYSIS**

#### **Assumptions**

#### **Department of Revenue**

1. Under current law, income from the sale of precious metals, including gold and silver coin or bullion, is considered a capital gain and is considered taxable income for Montana income tax purposes.
2. HB 382 makes gold and silver coin or bullion issued by the United States a legal tender in Montana. The bill also excludes gains from the exchange of one form of legal tender for another form of legal tender from state individual income tax and any current or future state sales tax. The changes made by HB 382 apply starting tax year (TY) 2026.
3. Unless required to by a contract or a court of competent jurisdiction of the United States, the Department of Revenue will not be required to accept gold or silver specie legal tender as a form of payment for tax liabilities, fees, or any other liability.
4. Excluding the exchange of one form of legal tender for another from the state's personal income tax will reduce personal income tax collections starting TY 2026.
5. In 2012 and 2013, the states of Utah and Oklahoma each passed bills excluding capital gains from the sale of gold and silver coin or bullion from personal income tax.
6. Both states assumed that 0.5% of all reported capital gains would be due from the sale or exchange of gold or silver.

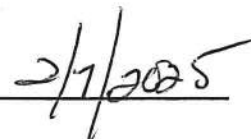
7. Since TY 2020, the total capital gains income reported by full-year resident taxpayers have increased significantly, moving from an average of \$2.325 billion from TY 2016 through TY 2019 to an average of \$5 billion from TY 2020 through TY 2023.
8. Discounting for the recent doubling in average reported capital gains, the 0.5% assumed by Utah and Oklahoma is reduced to 0.25% of future capital gains will be from the sale of qualified gold and silver.
9. The HJ 2 revenue assumptions anticipate \$3.591 billion in taxable capital gains income in TY 2026, \$3.246 billion in TY 2027 and \$3.459 billion in TY 2028.
10. Applying the 0.25% qualified income rate, it is assumed that there will be \$8,977,500 (\$3,591,000,000 X 0.0025) in qualified capital gains in TY 2026. For TY 2027 and 2028, it is assumed that there will be \$8,115,000 and \$8,647,500 in qualified income.
11. It is assumed that taxpayers will pay the top net-long-term capital gains tax rate on this income each tax year. Under current law, the top tax rate for net-long-term capital gains is 4.1%.
12. With \$8,977,500 in qualified capital gains income and a tax rate of 4.1%, excluding this income from Montana's personal income tax will reduce tax liabilities by \$368,000 (\$8,977,500 X 0.041) in TY 2026. The reductions for TY 2027 and TY 2028 are estimated to be \$333,000 and \$355,000. No change in taxpayer withholding or estimated payment are expected under HB 382.
13. With no changes in withholding or estimated payment amounts, the proposed income tax exclusion will reduce general fund revenue by \$368,000 in FY 2027, \$333,000 in FY 2028 and \$355,000 in FY 2029.
14. The changes required by the bill can be made as part of the Department's annual change process. The department does not expect to incur any significant additional costs.

## Fiscal Analysis Table

Department of Revenue				
	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
<b>Fiscal Impact</b>				
<b>Expenditures</b>				
<b>Funding of Expenditures</b>				
<b>Revenues</b>				
General Fund (01)	\$0	(\$368,000)	(\$333,000)	(\$355,000)
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>(\$368,000)</b>	<b>(\$333,000)</b>	<b>(\$355,000)</b>
<b>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</b>				
General Fund (01)	\$0	(\$368,000)	(\$333,000)	(\$355,000)

## Technical Concerns

1. Section 2 defines "specie legal tender". However, Section 6 also provides a definition of "specie legal tender." The definitions are not the same. In addition, the definition in Section 6 provides a circular reference in its definition of "specie legal tender." A clarification will be necessary.
2. This fiscal note presents the direct fiscal impact to revenue collections for the State of Montana. Other impacts to state and local governments, schools, and private industry in Montana are unknown, but would be significant.


2/7/2025

**Fiscal Note Request - As Introduced**

*(continued)*

Sponsor's Initials

Date

Budget Director's Initials

Date