

HOUSE BILL NO. 382

INTRODUCED BY T. MILLETT, E. ALBUS, G. OVERSTREET, T. SHARP, E. BYRNE, C. HINKLE, A. REGIER,
B. LER, J. SCHILLINGER, L. DEMING, B. USHER, L. BREWSTER, G. KMETZ, Z. WIRTH, J. HINKLE, V.
MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT RECOGNIZING SPECIE LEGAL TENDER IN THE STATE;
RECOGNIZING GOLD AND SILVER COIN OR BULLION ISSUED BY THE UNITED STATES; PROVIDING
THAT EXCHANGES OF SPECIE LEGAL TENDER ARE EXEMPT FROM INDIVIDUAL INCOME TAX;
DEFINING "SPECIE LEGAL TENDER"; AMENDING SECTIONS 15-30-2101, 15-30-2120, AND 45-9-206,
MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Specie Legal
Tender Act".

NEW SECTION. **Section 2. Definition.** Subject to [section 3(3)], as used in [sections 1 through 5],
"specie legal tender" means gold or silver coin that is issued by the United States.

NEW SECTION. **Section 3. Specie legal tender -- legal tender -- prohibition on compelling
acceptance of legal tender -- court or congressional action to authorize gold or silver coin or bullion as
legal tender.** (1) Specie legal tender is legal tender in the state.

(2) Except as expressly provided by contract, a person may not compel any other person to tender
or accept specie legal tender.

(3) Gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, is
considered to be specie legal tender and is legal tender if:

(a) a court of competent jurisdiction issues a final, unappealable judgment or order determining
that the state may recognize the gold or silver coin or bullion, other than the gold or silver coin that is issued by

1 the United States, as legal tender in this state; or

2 (b) congress enacts legislation that:

3 (i) expressly provides that the gold or silver coin or bullion, other than gold or silver coin that is
4 issued by the United States, is legal tender in this state; or

5 (ii) expressly allows the state to recognize the gold or silver coin or bullion, other than gold or silver
6 coin that is issued by the United States, as legal tender in the state.

7 (4) A central bank digital currency is not specie legal tender and is not legal tender in this state.

8

9 **NEW SECTION. Section 4. Tax exemption -- exchange of legal tender.** A transaction involving the
10 exchange of one form of legal tender for another form of legal tender:

11 (1) is not subject to individual income tax as provided in 15-30-2120;

12 (2) is not subject to any sales tax, including sales taxes that may be approved on or after [the
13 effective date of this act].

14

15 **NEW SECTION. Section 5. Anti-commandeering -- civil asset forfeiture.** ~~Under no circumstances~~
16 ~~may~~ UNLESS ORDERED BY A DISTRICT COURT, the state of Montana or any department, agency, court, political
17 subdivision, or instrumentality OF THE STATE MAY NOT do any of the following:

18 (1) seize from any person any specie legal tender that is owned by the person, except as
19 otherwise provided in 45-9-206. A person whose specie legal tender is seized in violation of this section and not
20 in compliance with 45-9-206 has a cause of action in a court of competent jurisdiction, with a successful action
21 resulting in the award of attorney fees.

22 (2) enforce or attempt to enforce any federal acts, laws, executive orders, administrative orders,
23 rules, regulations, statutes, or ordinances infringing on the right of a person to keep and use specie legal tender
24 as provided in [sections 1 through 5];

25 (3) restrict in any way the ability of a person or financial institution to acquire specie legal tender or
26 use specie legal tender in transactions; or

27 (4) enact a law discriminating or favoring one means of legal tender in the course of a transaction
28 over another means of legal tender.

1

2 **Section 6.** Section 15-30-2101, MCA, is amended to read:

3 **"15-30-2101. Definitions.** For the purpose of this chapter, unless otherwise required by the context,
4 the following definitions apply:

5 (1) "Consumer price index" means the consumer price index, United States city average, for all
6 items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor
7 statistics of the U.S. department of labor.

8 (2) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

9 (a) that is treated as an association for federal income tax purposes;

10 (b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is
11 not in effect; and

12 (c) that is not a disregarded entity.

13 (3) "Department" means the department of revenue.

14 (4) "Disregarded entity" means a business entity:

15 (a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in
16 United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as
17 those regulations may be labeled or amended; or

18 (b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as
19 provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

20 (5) "Dividend" means:

21 (a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or
22 members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

23 (b) any distribution made by an S. corporation treated as a dividend for federal income tax
24 purposes.

25 (6) "Federal adjusted gross income" means adjusted gross income as defined in section 62 of the
26 Internal Revenue Code, 26 U.S.C. 62.

27 (7) "Federal taxable income", when referring to an individual, means taxable income as defined
28 and described in section 63 of the Internal Revenue Code, 26 U.S.C. 63, and, when referring to a trust or

1 estate, means taxable income as defined and described in sections 641 through 692 of the Internal Revenue
2 Code, 26 U.S.C. 641 through 692.

3 (8) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any
4 person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

5 (9) "Foreign C. corporation" means a corporation that is not engaged in or doing business in
6 Montana, as provided in 15-31-101.

7 (10) "Foreign government" means any jurisdiction other than the one embraced within the United
8 States, its territories, and its possessions.

9 (11) "Head of household" means a head of household as defined and described in section 2(b) of
10 the Internal Revenue Code, 26 U.S.C. 2(b).

11 (12) "Inflation factor" means a number determined for each tax year by dividing the consumer price
12 index for June of the previous tax year by the consumer price index for June 2023.

13 (13) "Information agents" includes all individuals and entities acting in whatever capacity, including
14 lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all
15 officers and employees of the state or of any municipal corporation or political subdivision of the state, having
16 the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities,
17 compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits,
18 and income with respect to which any person or fiduciary is taxable under this chapter.

19 (14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may
20 be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those
21 provisions as they may be otherwise labeled or further amended.

22 (15) "Joint return" means one return made jointly by a married individual with that individual's
23 spouse.

24 (16) "Knowingly" is as defined in 45-2-101.

25 (17) "Limited liability company" means a limited liability company, domestic limited liability company,
26 or a foreign limited liability company as defined in 35-8-102.

27 (18) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

28 (19) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

- 1 (a) a resident taxpayer on a lottery ticket; or
- 2 (b) a nonresident taxpayer on a lottery ticket purchased in Montana.
- 3 (20) "Married individual" means a married individual as defined and described in section 7703 of the
- 4 Internal Revenue Code, 26 U.S.C. 7703.
- 5 (21) (a) "Montana source income" means:
- 6 (i) wages, salary, tips, and other compensation for services performed in the state or while a
- 7 resident of the state;
- 8 (ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or
- 9 otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or
- 10 occupation carried on in the state;
- 11 (iii) gain attributable to the sale or other transfer of intangible property received or accrued while a
- 12 resident of the state;
- 13 (iv) interest received or accrued while a resident of the state or from an installment sale of real
- 14 property or tangible commercial or business personal property located in the state;
- 15 (v) dividends received or accrued while a resident of the state;
- 16 (vi) net income or loss derived from a trade, business, profession, or occupation carried on in the
- 17 state or while a resident of the state;
- 18 (vii) net income or loss derived from farming activities carried on in the state or while a resident of
- 19 the state;
- 20 (viii) net rents from real property and tangible personal property located in the state or received or
- 21 accrued while a resident of the state;
- 22 (ix) net royalties from real property and from tangible real property to the extent the property is
- 23 used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in
- 24 the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days
- 25 of physical location of the property in the state during the royalty period in the tax year and the denominator of
- 26 which is the number of days of physical location of the property everywhere during all royalty periods in the tax
- 27 year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in
- 28 the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state;

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and

(xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment factor as provided in this subsection (21)(a)(xvii) does not fairly and equitably represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may require with respect to any and all of the partnership interest, the employment of another

method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection (21)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(22) "Montana taxable income" means federal taxable income as determined for federal income tax purposes and adjusted as provided in 15-30-2120.

(23) "Nonresident" means a natural person who is not a resident.

(24) "Paid" means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting used to compute federal taxable income.

(25) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

(26) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

(27) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

(28) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

(29) "Purposely" is as defined in 45-2-101.

(30) "Received" means received or accrued, and the term "received or accrued" must be construed according to the method of accounting used to compute federal taxable income.

(31) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(32) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code, 26 U.S.C. 1362, is in effect.

(33) "Specie legal tender" means income derived from specie legal tender transfers pursuant to [sections 1 through 5].

~~(33)~~(34) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

~~(34)~~(35) "Surviving spouse" means a surviving spouse as defined and described in section 2(a) of the Internal Revenue Code, 26 U.S.C. 2(a).

~~(35)~~(36) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

~~(36)~~(37) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C.

1 corporation."

2

3 **Section 7.** Section 15-30-2120, MCA, is amended to read:

4 **"15-30-2120. Adjustments to federal taxable income to determine Montana taxable income. (1)**

5 The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable
6 income to determine Montana taxable income.

7 (2) The following are added to federal taxable income:

8 (a) to the extent that it is not exempt from taxation by Montana under federal law, interest from
9 obligations of a territory or another state or any political subdivision of a territory or another state and exempt-
10 interest dividends attributable to that interest except to the extent already included in federal taxable income;

11 (b) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal
12 Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the
13 income;

14 (c) depreciation or amortization taken on a title plant as defined in 33-25-105;

15 (d) the recovery during the tax year of an amount deducted in any prior tax year to the extent that
16 the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

17 (e) an item of income, deduction, or expense to the extent that it was used to calculate federal
18 taxable income if the item was also used to calculate a credit against a Montana income tax liability;

19 (f) a deduction for an income distribution from an estate or trust to a beneficiary that was included
20 in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal
21 Revenue Code, 26 U.S.C. 651 and 661;

22 (g) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for
23 a purpose other than an eligible medical expense or long-term care of the employee or account holder or a
24 dependent of the employee or account holder;

25 (h) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63,
26 used for a purpose other than for eligible costs for the purchase of a single-family residence;

27 (i) for a taxpayer that deducts the qualified business income deduction pursuant to section 199A
28 of the Internal Revenue Code, 26 U.S.C. 199A, an amount equal to the qualified business income deduction

1 claimed;

2 (j) for an individual taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the
3 Internal Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction
4 claimed, not to exceed the amount required to reduce the federal itemized amount computed under section 161
5 of the Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under
6 section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c); and

7 (k) for a pass-through entity, estate, or trust, the amount of state income taxes deducted pursuant
8 to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3); AND

9 (L) THE AMOUNT OF ANY NET CAPITAL LOSS THAT IS DERIVED FROM THE SALE OR EXCHANGE OF SPECIE
10 LEGAL TENDER AS PROVIDED IN [SECTIONS 1 THROUGH 5].

11 (3) To the extent they are included as income or gain or not already excluded as a deduction or
12 expense in determining federal taxable income, the following are subtracted from federal taxable income:

13 (a) a deduction for an income distribution from an estate or trust to a beneficiary in accordance
14 with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the
15 additions and subtractions in subsections (2) and (3)(b) through ~~(3)(e)~~ (3)(p);

16 (b) if exempt from taxation by Montana under federal law:

17 (i) interest from obligations of the United States government and exempt-interest dividends
18 attributable to that interest; and

19 (ii) railroad retirement benefits;

20 (c) (i) salary received from the armed forces by residents of Montana who are serving on active
21 duty in the regular armed forces and who entered into active duty from Montana;

22 (ii) the salary received by residents of Montana for active duty in the national guard. For the
23 purposes of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national
24 guard member pursuant to:

25 (A) Title 10, U.S.C.; or

26 (B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency
27 operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland
28 defense activity or contingency operation.

(iii) the amount received by a beneficiary pursuant to 10-1-1201; and

(iv) all payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law, Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(d) annual contributions and income in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

(e) contributions or earnings withdrawn from a family education savings account provided for in Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified education expenses, as defined in 15-62-103, of a designated beneficiary;

(f) interest and other income related to contributions that were made prior to January 1, 2024, that are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family residence;

(g) for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;

(h) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104;

(i) a payment received by a private landowner for providing public access to public land pursuant to Title 76, chapter 17, part 1;

(j) the amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not previously allowed as a deduction for Montana income tax purposes;

(k) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(l) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163;

- 1 (m) payments from the Montana end of watch trust as provided in 2-15-2041;
- 2 (n) (i) subject to subsection (9), a portion of military pensions or military retirement income as
- 3 calculated pursuant to subsection (8) that is received by a retired member of:
- 4 (A) the armed forces of the United States, as defined in 10 U.S.C. 101;
- 5 (B) the Montana army national guard or the army national guard of other states;
- 6 (C) the Montana air national guard or the air national guard of other states; or
- 7 (D) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and
- 8 (ii) subject to subsection (9), up to 50% of all income received as survivor benefits for military
- 9 service provided for in subsection (3)(n)(i)(A) through (3)(n)(i)(D); and
- 10 (o) the amount of the property tax rebate received under 15-1-2302; and
- 11 (p) THE AMOUNT OF ANY NET CAPITAL GAIN THAT IS DERIVED FROM THE SALE OR EXCHANGE OF specie
- 12 legal tender as provided in [sections 1 through 5].
- 13 (4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's
- 14 business deductions:
- 15 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections
- 16 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the
- 17 wages and salaries paid regardless of the credit taken; or
- 18 (ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to
- 19 deduct the amount of the business expense paid when there is no corresponding state income tax credit or
- 20 deduction, regardless of the credit taken.
- 21 (b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or
- 22 business expenses were used to compute the credit. In the case of a partnership or small business corporation,
- 23 the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership
- 24 or small business corporation.
- 25 (5) (a) An individual who contributes to one or more accounts established under the Montana
- 26 family education savings program or to a qualified tuition program established and maintained by another state
- 27 as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce
- 28 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each

1 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.

2 Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each
3 spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions
4 to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or
5 stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not
6 apply with respect to withdrawals of contributions that reduced federal taxable income.

7 (b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for
8 in 15-62-208.

9 (6) (a) An individual who contributes to one or more accounts established under the Montana
10 achieving a better life experience program or to a qualified program established and maintained by another
11 state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of
12 married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions
13 to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as
14 being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with
15 respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or
16 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of
17 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

18 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in
19 53-25-118.

20 (7) By November 1 of each year, the department shall multiply the subtraction from federal taxable
21 income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for
22 that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must
23 be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g).

24 (8) (a) Subject to subsection (9), the subtraction in subsection (3)(n)(i) is equal to the lesser of:

25 (i) the amount of Montana source wage income on the return; or

26 (ii) 50% of the taxpayer's military pension or military retirement income.

27 (b) For the purposes of subsection (8)(a)(i), "Montana source wage income" means:

28 (i) wages, salary, tips, and other compensation for services performed in the state;

- 1 (ii) net income from a trade, business, profession, or occupation carried on in the state; and
- 2 (iii) net income from farming activities carried on in the state.
- 3 (9) The subtractions in subsection (3)(n):
- 4 (a) may only be claimed by a person who:
- 5 (i) becomes a resident of the state after June 30, 2023; or
- 6 (ii) was a resident of the state before receiving military pension or military retirement income and
- 7 remained a resident after receiving military pension or military retirement income;
- 8 (b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a);
- 9 and
- 10 (c) are not available if a taxpayer claimed the exemption before becoming a nonresident.
- 11 (Subsection (3)(o) terminates June 30, 2025--sec. 10, Ch. 47, L. 2023; subsections (3)(n), (8), and (9) terminate
- 12 December 31, 2033--sec. 4, Ch. 650, L. 2023.)"
- 13

14 **Section 8.** Section 45-9-206, MCA, is amended to read:

15 **"45-9-206. Use or possession of property subject to criminal forfeiture -- property subject to**

16 **criminal forfeiture.** (1) A person commits the offense of use or possession of property subject to criminal

17 forfeiture if the person knowingly possesses, owns, uses, or attempts to use property that is subject to criminal

18 forfeiture under this section. A person convicted of the offense of use or possession of property subject to

19 criminal forfeiture shall be imprisoned in the state prison for a term not to exceed 10 years. Upon conviction, the

20 property subject to criminal forfeiture is forfeited to the state and must be disposed of in accordance with the

21 provisions of 44-12-212 and 44-12-213.

22 (2) A person charged with an offense pursuant to this section may request a pretrial forfeiture

23 hearing pursuant to 44-12-209.

24 (3) The following property is subject to criminal forfeiture under this section:

25 (a) money, specie legal tender under [sections 1 through 5], raw materials, products, equipment,

26 and other property of any kind that is used or intended for use in manufacturing, preparing, cultivating,

27 compounding, processing, delivering, importing, or exporting a dangerous drug in violation of 45-9-101, 45-9-

28 103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-

9-110;

(b) property used or intended for use as a container for property enumerated in subsection (3)(a);

(c) a conveyance, including an aircraft, vehicle, or vessel, used or intended for use to facilitate a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110;

(d) books, records, research products and materials, formulas, microfilm, tapes, and data used or intended for use in connection with a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110;

(e) (i) everything of value furnished or intended to be furnished in exchange for a dangerous drug in violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; and

(ii) all proceeds traceable to such an exchange;

(f) money, specie legal tender under [sections 1 through 5], negotiable instruments, securities, and weapons used or intended to be used to facilitate a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110;

(g) personal property constituting or derived from proceeds obtained directly or indirectly from a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; and

(h) real property, including any right, title, and interest in a lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner to facilitate a violation of or that is derived from or maintained by proceeds resulting from a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110.

(4) Property subject to criminal forfeiture under this section may be seized under the following circumstances:

(a) A peace officer who has probable cause to make an arrest for a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110 may seize a conveyance obtained with proceeds of the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency, to be held as evidence

1 until a criminal forfeiture is declared or release ordered.

2 (b) Property subject to criminal forfeiture under this section may be seized by a peace officer under
3 a search warrant issued by a court having jurisdiction over the property.

4 (c) Seizure without a warrant may be made if:

5 (i) the seizure is incident to an arrest or a search under a search warrant issued for another
6 purpose or an inspection under an administrative inspection warrant;

7 (ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or
8 a criminal forfeiture proceeding based on this section or on Title 44, chapter 12;

9 (iii) a peace officer has probable cause to believe that the property is directly or indirectly
10 dangerous to health or safety; or

11 (iv) a peace officer has probable cause to believe that the property was used or is intended to be
12 used in violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy is a
13 violation of 45-9-101, 45-9-103, or 45-9-110.

14 (5) As used in this section, "dangerous drug" means a substance designated as a dangerous drug
15 under Title 50, chapter 32, parts 1 and 2.

16 (6) A prosecution under subsection (1) must be commenced within 45 days of the seizure of the
17 property involved.

18 (7) A bona fide security interest is not subject to forfeiture unless the person claiming a security
19 interest had actual knowledge, as defined in 44-12-101, that the property was subject to forfeiture at the time
20 that the property was seized under this chapter. A person claiming a security interest bears the burden of
21 production and must establish the validity of the interest by clear and convincing evidence.

22 (8) The property of an innocent owner is not subject to forfeiture under this section. A property
23 owner or person with an ownership interest in property subject to forfeiture must be declared an innocent owner
24 if:

25 (a) the property owner or person with an ownership interest in the property can establish a legal
26 right, title, or interest in the seized property; and

27 (b) the state is unable to prove by clear and convincing evidence that the owner or person with an
28 ownership interest in the property had actual knowledge, as defined in 44-12-101, of the crime associated with

1 a forfeiture proceeding."

2

3 NEW SECTION. Section 9. Codification instruction. [Sections 1 through 5] are intended to be
4 codified as an integral part of Title 30, and the provisions of Title 30 apply to [sections 1 through 5].

5

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

9

10 NEW SECTION. Section 11. Applicability. [This act] applies to tax years beginning after December
11 31, 2025.

12

- END -