GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

# Fiscal Note 2027 Biennium

Bill#/Title: **HB0453.01: Require DOR to accept income tax payments in cryptocurrency**

Primary Sponsor: Randyn Gregg 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

| | FY 2026 Difference | FY 2027 Difference | FY 2028 Difference | FY 2029 Difference |
|---|---|---|---|---|
| **Expenditures** | | | | |
| General Fund (01) | $0 | $0 | $0 | $0 |
| **Revenues** | | | | |
| General Fund (01) | $0 | ($75,000) | ($68,000) | ($73,000) |
| **Net Impact General Fund Balance** | $0 | ($75,000) | ($68,000) | ($73,000) |

**Description of fiscal impact**

**Department of Revenue**

HB 453 would allow taxpayers to pay their taxes using cryptocurrency. The Department of Revenue would be required to contract a third-party payment processor. If the taxpayer uses cryptocurrency to pay their tax bill, that amount is not subject to the state's capital gains tax but would still be subject to federal capital gains. The bill is effective starting in TY 2026. Forms would need to be updated, and public outreach be needed. These costs would be absorbed by the department as part of annual change processes.

## FISCAL ANALYSIS

**Assumptions**

**Department of Revenue**

1. Under current law, income from the sale of cryptocurrency is considered a capital gain and is considered taxable income for Montana income tax purposes.
2. HB 453 allows taxpayers to use cryptocurrency as a form of payment to the Department of Revenue while excluding such payments from the Montana capital gains tax. This change would apply January 1, 2026.
3. Excluding cryptocurrency from the capital gains tax (short-term or long-term gains) will reduce personal income tax collections starting TY 2026.
4. In 2012 and 2013, the states of Utah and Oklahoma each passed legislation excluding the capital gains from the sale of gold and silver coin or bullion from their state's personal income tax.
5. Each state assumed that 0.5% of all reported capital gains in the state would occur from the sale or exchange of either gold or silver.
6. 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.

7. It is assumed that most of the increase in capital gains during this period was not from qualified gold and silver sales.
8. Based on the 0.5% assumed by Utah and Oklahoma for the capital gains from gold and silver, capital gains from cryptocurrency is estimated to be 25 percent of the value of gold and silver capital gains. The doubling of average reported capital gains in recent years is unlikely due to cryptocurrency so this percentage is reduced by 50% it is assumed that 0.05125% of capital gains in future tax years will be from the sale of cryptocurrency.
9. The revenue assumptions in HJ 2 project there will be $3.591 billion in taxable capital gains income in TY 2026. For tax years 2027 and 2028, HJ 2 projects capital gains of $3.246 billion and $3.459 billion, respectively.
10. With $3.591 billion in capital gains income in 2026, and a 0.05125% qualified income rate, it is assumed that there will be $1,840,000 ($3,591,000,000 X 0.0005125) in cryptocurrency payment capital gains in TY 2026. For TY 2027 and Ty 2028, it is assumed that there will be $1,664,000 and $1,773,000 in this 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 $1,840,000 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 $75,000 ($1,840,000 X 0.041) in TY 2026. The reductions for TY 2027 and TY 2028 are estimated to be $68,000 and $73,000.
13. Taxpayers assumed to not change their withholding or estimated payment due to the changes in HB 453.
14. this is estimated to reduce general fund revenue by $75,000 in FY 2027, $68,000 in FY 2028 and $73,000 in FY 2029.
15. The bill's proposed changes can be made as part of the Department of Revenue's annual change process. It is assumed the third-party payment processor fees will be paid by the payee.

**Fiscal Analysis Table**

| **Department of Revenue** | **FY 2026 Difference** | **FY 2027 Difference** | **FY 2028 Difference** | **FY 2029 Difference** |
|---|---|---|---|---|
| **Fiscal Impact** | | | | |
| **Expenditures** | | | | |
| **Funding of Expenditures** | | | | |
| **Revenues** | | | | |
| General Fund (01) | $0 | ($75,000) | ($68,000) | ($73,000) |
| **TOTAL Revenues** | **$0** | **($75,000)** | **($68,000)** | **($73,000)** |
| **Net Impact to Fund Balance (Revenue minus Funding of Expenditures)** | | | | |
| General Fund (01) | $0 | ($75,000) | ($68,000) | ($73,000) |

**Technical Concerns**

**Department of Revenue**

1. Cryptocurrency transactions may be taxed at ordinary income rates if the conversion is not a long-term capital gain.
2. The applicability date should apply to the date the department must begin to accept payments in cryptocurrency through the third-party processor.
3. If capital gains are not recognized, then the losses will not be recognized, generating a difference between state long term capital loss carryovers and federal taxable income, The department will need to track and record those differences.

4. Taxpayer can posses several cryptocurrencies each with a different basis immediately before the transaction, and several transactions with the Department of Revenue and other buyers. The department would need to know which cryptocurrency (and its basis) is used for the payment of taxes to apply the correct adjustment.
5. The bill does not account for the volatility of cryptocurrency (i.e., the cryptocurrency could have different values from when the taxpayer submits payment to the third-party relative to when the third party converts it to dollars). A clear designation of which party absorbs the risk would clarify the administration of these payments.

NOT SIGNED BY SPONSOR

2/20/25

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|---|---|---|---|
| Sponsor's Initials | Date | Budget Director's Initials | 2/18/2025<br>Date |