

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 578

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO LEGAL TENDER; PROVIDING LEGISLATIVE FINDINGS AND STATEMENT OF  
2 POLICY; AMENDING CHAPTER 46, TITLE 63, IDAHO CODE, BY THE ADDITION OF  
3 A NEW SECTION 63-4601, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMEND-  
4 ING CHAPTER 46, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
5 63-4602, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 46, TITLE  
6 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-4603, IDAHO CODE,  
7 TO ESTABLISH PROVISIONS RELATING TO THE DESIGNATION OF CERTAIN LEGAL  
8 TENDER; AMENDING CHAPTER 46, TITLE 63, IDAHO CODE, BY THE ADDITION OF  
9 A NEW SECTION 63-4604, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO  
10 THE PROHIBITION OF CERTAIN FORMS OF TAXATION UPON CERTAIN TRANSACTIONS  
11 AND TO PROVIDE FOR A CIVIL SUIT AND THE AWARDING OF CERTAIN COSTS; AND  
12 PROVIDING SEVERABILITY.  
13

14 Be It Enacted by the Legislature of the State of Idaho:

15 SECTION 1. LEGISLATIVE FINDINGS AND STATEMENT OF POLICY. (1) The Leg-  
16 islature of the State of Idaho hereby finds and declares that money is a fun-  
17 damental form of property, serving as a medium of exchange, a fixed unit of  
18 measure and a store of value. The use of money enables individuals to freely  
19 and collectively exercise their inherent rights within society.

20 (2) Sound money, most commonly precious metal coin, by virtue of its in-  
21 trinsic qualities of uniformity, divisibility, durability, privacy, porta-  
22 bility and scarcity, reliably retains its value over time, irrespective of  
23 any governmental declaration to require or prohibit its use.

24 (3) Gold and silver coin, in whatever form, benefits society by main-  
25 taining stable purchasing power and circulating on a voluntary and unencum-  
26 bered basis, thereby promoting prosperity and unity within any community  
27 upholding it. History attests that monopolistic monetary systems based on  
28 legal tender edicts tend toward manipulation of the supply, resulting in  
29 lost purchasing power, inequitable wealth redistributions, misallocation  
30 of productive resources and chronic unemployment, thus impairing life, lib-  
31 erty and property.

32 (4) In order to protect Idaho and its citizens against this danger, it  
33 is necessary for the state to permit gold and silver coin as "legal tender" in  
34 payment of debts under certain circumstances.

35 (5) Such a designation is within the authority of the State of Idaho  
36 as an exercise of its police power and under the aegis of Clause 1, Section  
37 10, Article I of, and the Tenth Amendment to, the Constitution of the United  
38 States.

39 (6) The Legislature also recognizes the liberty of Idahoans to conduct  
40 business in gold and silver involving gold and silver coin uninhibited and at  
41 their own discretion as a right retained by the People of Idaho.

1 SECTION 2. That Chapter 46, Title 63, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 63-4601, Idaho Code, and to read as follows:

4 63-4601. SHORT TITLE. This act shall be known and cited as the "Idaho  
5 Constitutional Money Act of 2012."

6 SECTION 3. That Chapter 46, Title 63, Idaho Code, be, and the same is  
7 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
8 ignated as Section 63-4602, Idaho Code, and to read as follows:

9 63-4602. DEFINITIONS. For the purposes of this act, the following  
10 terms have the following definitions:

11 (1) "Gold and silver coin" means all such "gold and silver Coin" as are  
12 allowable for a state (a) to "make ... a Tender in Payment of Debts" under  
13 the authority reserved to the several states in Clause 1, Section 10, Article  
14 I of, and the Tenth Amendment to, the Constitution of the United States, or  
15 (b) to employ as its own media of exchange in the performance of its sovereign  
16 governmental functions.

17 (2) "Legal tender" means a medium of exchange, currency, or money that  
18 may be offered and accepted for the satisfaction of debts under the laws of  
19 the state of Idaho or of the United States, as the case may be.

20 (3) "Obligation" means any public or private obligation, or other pub-  
21 lic charge, or other provision in any contract, agreement, law, or regula-  
22 tion that requires and stipulates the payment of, or by the terms of which is  
23 payable in, some medium of exchange, currency, or money.

24 (4) "Person" includes the state of Idaho and all natural persons, cor-  
25 porations, partnerships, trusts, labor unions, and unincorporated associa-  
26 tions that reside or transact business or other operations within the state.

27 (5) "State of Idaho" means the state of Idaho and its political subdivi-  
28 sions and all departments, agencies, officials, and employees thereof.

29 SECTION 4. That Chapter 46, Title 63, Idaho Code, be, and the same is  
30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
31 ignated as Section 63-4603, Idaho Code, and to read as follows:

32 63-4603. DESIGNATION OF LEGAL TENDER. (1) To the full extent allowed  
33 by clause 1, section 10, article I of, and the tenth amendment to, the consti-  
34 tution of the United States, gold and silver coin shall be legal tender in the  
35 state of Idaho under the laws thereof.

36 (2) Any person may employ gold or silver coin, or both, as legal tender  
37 in the state of Idaho, under the laws thereof, for payment of any obligation  
38 to which that person is a party.

39 (a) If by its terms an obligation requires payment in gold or silver  
40 coin, or both, then the only allowable media of exchange for payment  
41 thereof shall be such gold or silver coin, or both, as any contract shall  
42 stipulate. And in any case or controversy involving the enforcement  
43 of such a contract, the courts of the state of Idaho shall specifically  
44 enforce payment in such gold or silver coin, or both.

45 (b) If by its terms an obligation requires payment in some medium of ex-  
46 change other than gold or silver coin, or both, the parties to the obli-

1 gation may mutually agree to payment thereof with gold or silver coin,  
2 or both, at such rate of exchange between such other medium of exchange  
3 originally stipulated in any contract and gold or silver coin, or both,  
4 as the parties may deem appropriate and formally memorialize in an ad-  
5 dendum to any contract. And in any case or controversy involving the en-  
6 forcement of such an obligation as so modified, the courts of the state  
7 of Idaho shall specifically enforce payment in such gold or silver coin,  
8 or both, according to the terms of such addendum.

9 (c) Except as provided in paragraph (d) of this subsection, no party to  
10 any contract which stipulates that payment is to be made in some medium  
11 of exchange other than gold or silver coin, and which shall not have been  
12 modified in accordance with paragraph (b) of this subsection, shall be  
13 compelled to tender or accept gold or silver coin in the satisfaction of  
14 such obligation.

15 (d) With respect to any obligation that is denominated in some number  
16 of United States "dollars," but which does not specify in what particu-  
17 lar kind of United States coin or other currency payment is to be made,  
18 the debtor may, at his option, tender in payment thereof United States  
19 gold or silver coin, or both, the aggregate face value of which in "dol-  
20 lars" is equal to the number of "dollars" stipulated in the obligation,  
21 in which event the creditor must accept such tender. Or, at his option,  
22 the debtor may tender in payment any other United States coin or cur-  
23 rency that has been designated legal tender under any of the laws of the  
24 United States, the aggregate face value of which other coin or currency  
25 in "dollars" is equal to the number of "dollars" stipulated in the con-  
26 tract, in which event the creditor must accept such tender. Or, at their  
27 mutual option, the parties may enter into an addendum to the contract,  
28 as specified in paragraph (b) of this subsection.

29 (3) The designation and allowance for employment of gold and silver  
30 coin as legal tender in and under this act shall not preclude or prejudice the  
31 use by any person for any legal purpose of any medium of exchange, currency,  
32 or money, in addition to gold and silver coin, which has been designated le-  
33 gal tender under any of the laws of the United States.

34 SECTION 5. That Chapter 46, Title 63, Idaho Code, be, and the same is  
35 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
36 ignated as Section 63-4604, Idaho Code, and to read as follows:

37 63-4604. PROHIBITION OF CERTAIN FORMS OF TAXATION. (1) A transaction  
38 entered into by any person subject to this act which involves the exchange of  
39 (a) any gold or silver coin, which shall be legal tender under the provisions  
40 of this act for (b) some medium of exchange, other than gold or silver coin,  
41 which has been designated legal tender under the laws of the United States  
42 shall not be subject to any sales, excise, gross receipts, income, capital  
43 gains, or other form of tax or public charge whatsoever under color of the  
44 laws of the state of Idaho.

45 (2) Any official, agent, or employee of the state of Idaho who shall  
46 attempt to assess, levy, collect, or in any other manner enforce, or direct,  
47 assist, or participate in the enforcement of any purported tax or public  
48 charge prohibited by subsection (1) of this section shall be subject in his  
49 individual capacity to a civil suit by the party against which any such as-

1    sessment, levy, collection, or other enforcement has been attempted, and  
2    upon proof thereof by a preponderance of the evidence shall be held person-  
3    ally liable to such party for damages and shall be required to recompense  
4    such party for all costs of suit or investigation, including reasonable  
5    attorney's fees. No part of any such judgment shall be paid, reimbursed,  
6    contributed to, guaranteed, or insured by the state of Idaho.

7           SECTION 6. SEVERABILITY. The provisions of this act are hereby declared  
8    to be severable and if any provision of this act or the application of such  
9    provision to any person or circumstance is declared invalid for any reason,  
10   such declaration shall not affect the validity of the remaining portions of  
11   this act.