

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 578, As Amended

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 AND TO ESTABLISH PROVISIONS RELATING TO THE PAYMENT OF CERTAIN  
9 TAXES; AMENDING CHAPTER 46, TITLE 63, IDAHO CODE, BY THE ADDITION OF A  
10 NEW SECTION 63-4604, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO  
11 THE PROHIBITION OF CERTAIN FORMS OF TAXATION UPON CERTAIN TRANSACTIONS  
12 AND TO PROVIDE FOR A CIVIL SUIT AND THE AWARDED OF CERTAIN COSTS; AMEND-  
13 ING SECTION 63-3022H, IDAHO CODE, TO PROVIDE THAT ANY CAPITAL GAIN ON  
14 THE EXCHANGE OF GOLD AND SILVER COIN FOR ANOTHER FORM OF UNITED STATES  
15 LEGAL TENDER SHALL NOT BE INCLUDED IN TAXABLE INCOME; AND PROVIDING SEV-  
16 ERABILITY.  
17

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

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

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

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

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

39 (5) Such a designation is within the authority of the State of Idaho  
40 as an exercise of its police power and under the aegis of Clause 1, Section  
41 10, Article I of, and the Tenth Amendment to, the Constitution of the United  
42 States.

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

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

7 63-4601. SHORT TITLE. This act shall be known and cited as the "Idaho  
8 Constitutional Money Act of 2012."

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

12 63-4602. DEFINITIONS. For the purposes of this act, the following  
13 terms have the following definitions:

14 (1) "Gold and silver coin" means any coin or bullion having at least  
15 fifty percent (50%) gold or silver content, the market value of which derives  
16 primarily from the value of such content, and which is:

17 (a) Issued at any time by the United States as legal tender; or

18 (b) Determined by congress to be legal tender; or

19 (c) Ruled by a final, unappealable judgment or order of a court of com-  
20 petent jurisdiction to be within the authority of the state of Idaho to  
21 make legal tender.

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

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

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

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

34 SECTION 4. 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 63-4603, Idaho Code, and to read as follows:

37 63-4603. DESIGNATION OF LEGAL TENDER. (1) Gold and silver coin is le-  
38 gal tender in the state of Idaho under the laws thereof.

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

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

1 of such a contract, the courts of the state of Idaho shall specifically  
2 enforce payment in such gold or silver coin, or both.

3 (b) If by its terms an obligation requires payment in some medium of ex-  
4 change other than gold or silver coin, or both, the parties to the obli-  
5 gation may mutually agree to payment thereof with gold or silver coin,  
6 or both, at such rate of exchange between such other medium of exchange  
7 originally stipulated in any contract and gold or silver coin, or both,  
8 as the parties may deem appropriate and formally memorialize in an ad-  
9 dendum to any contract. And in any case or controversy involving the en-  
10 forcement of such an obligation as so modified, the courts of the state  
11 of Idaho shall specifically enforce payment in such gold or silver coin,  
12 or both, according to the terms of such addendum.

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

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

33 (e) For a purchase made or obligation satisfied with gold or silver coin  
34 that gives rise to tax liability pursuant to title 63, Idaho Code, any  
35 tax due shall be paid in gold or silver coin unless the state tax com-  
36 mission directs that such tax shall be paid in other legal tender, in  
37 which case the amount of the tax due shall be equal to the market value of  
38 the gold and silver coin valued in such other legal tender as of the date  
39 of the purchase payment or obligation satisfaction as calculated using  
40 the then most current London fixing price. The provisions of this para-  
41 graph (e) shall take precedence over the provisions of paragraph (d) of  
42 this subsection (2) in the event of a conflict between the application  
43 of these two paragraphs to any particular transaction.

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

1 SECTION 5. 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 63-4604, Idaho Code, and to read as follows:

4 63-4604. PROHIBITION OF CERTAIN FORMS OF TAXATION. (1) A transaction  
5 entered into by any person subject to this act which involves the exchange of  
6 (a) any gold or silver coin, which shall be legal tender under the provisions  
7 of this act for (b) some medium of exchange, other than gold or silver coin,  
8 which has been designated legal tender under the laws of the United States  
9 shall not be subject to capital gains tax.

10 (2) Any official, agent, or employee of the state of Idaho who shall  
11 attempt to assess, levy, collect, or in any other manner enforce, or direct,  
12 assist, or participate in the enforcement of any purported tax or public  
13 charge prohibited by subsection (1) of this section shall be subject in his  
14 individual capacity to a civil suit by the party against which any such as-  
15 sessment, levy, collection, or other enforcement has been attempted, and  
16 upon proof thereof by a preponderance of the evidence shall be held person-  
17 ally liable to such party for damages and shall be required to recompense  
18 such party for all costs of suit or investigation, including reasonable  
19 attorney's fees. No part of any such judgment shall be paid, reimbursed,  
20 contributed to, guaranteed, or insured by the state of Idaho.

21 SECTION 6. That Section 63-3022H, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer  
24 reports capital gain net income in determining taxable income, eighty per-  
25 cent (80%) in taxable year 2001 and sixty percent (60%) in taxable years  
26 thereafter of the capital gain net income from the sale or exchange of quali-  
27 fied property shall be a deduction in determining Idaho taxable income. Any  
28 capital gain on the exchange of gold and silver coin, as defined in section  
29 63-4602, Idaho Code, for another form of United States legal tender shall not  
30 be included in taxable income.

31 (2) The deduction provided in this section is limited to the amount of  
32 the capital gain net income from all property included in taxable income.  
33 Gains treated as ordinary income by the Internal Revenue Code do not qualify  
34 for the deduction allowed in this section. The deduction otherwise allow-  
35 able under this section shall be reduced by the amount of any federal capital  
36 gains deduction relating to such property, but not below zero.

37 (3) Property held by an estate, trust, S corporation, partnership, lim-  
38 ited liability company or an individual is "qualified property" under this  
39 section if the property had an Idaho situs at the time of sale and is:

40 (a) Real property held at least twelve (12) months;

41 (b) Tangible personal property used in Idaho for at least twelve (12)  
42 months by a revenue-producing enterprise;

43 (c) Cattle or horses held for breeding, draft, dairy or sporting pur-  
44 poses for at least twenty-four (24) months if more than one-half (1/2)  
45 of the taxpayer's gross income (as defined in section 61(a) of the In-  
46 ternal Revenue Code) for the taxable year is from farming or ranching  
47 operations in Idaho;

1 (d) Breeding livestock other than cattle or horses held at least twelve  
2 (12) months if more than one-half (1/2) of the taxpayer's gross income  
3 (as defined in section 61(a) of the Internal Revenue Code) for the tax-  
4 able year is from farming or ranching operations in Idaho;

5 (e) Timber grown in Idaho and held at least twenty-four (24) months;

6 (f) In determining the period for which property subject to this sec-  
7 tion has been held by a taxpayer, the provisions of section 1223 of the  
8 Internal Revenue Code shall apply, except that the holding period shall  
9 not include the holding period of property given up in an exchange, when  
10 such property would not have constituted qualified property under this  
11 section without regard to meeting the holding period nor shall the hold-  
12 ing period include any time period in which the property subject to this  
13 section was held by a corporation other than an S corporation.

14 (4) As used in this section "revenue-producing enterprise" means:

15 (a) The production, assembly, fabrication, manufacture, or processing  
16 of any agricultural, mineral or manufactured product;

17 (b) The storage, warehousing, distribution, or sale at wholesale of any  
18 products of agriculture, mining or manufacturing;

19 (c) The feeding of livestock at a feedlot;

20 (d) The operation of laboratories or other facilities for scientific,  
21 agricultural, animal husbandry, or industrial research, development,  
22 or testing.

23 (5) As used in this section the term "real property" means land and  
24 other tangible property permanently upon or affixed to the land.

25 SECTION 7. SEVERABILITY. The provisions of this act are hereby declared  
26 to be severable and if any provision of this act or the application of such  
27 provision to any person or circumstance is declared invalid for any reason,  
28 such declaration shall not affect the validity of the remaining portions of  
29 this act.