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HOUSE BILL NO. 884

INTRODUCED BY J. READ, L. HELLEGAARD

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE PAYMENT OF CERTAIN STATE TAXES BY GOLD AND SILVER COIN, ELECTRONIC GOLD CURRENCY, OR STATE-PRODUCED MEDIA OF EXCHANGE THAT CONTAINS GOLD; PROVIDING THAT THE DEPARTMENT OF REVENUE MAY AUTHORIZE OR CREATE A MEDIA OF EXCHANGE THAT CONTAINS GOLD; PROVIDING INDIVIDUAL AND CORPORATE INCOME TAX CREDITS FOR USING GOLD AND SILVER COIN OR ELECTRONIC GOLD CURRENCY AS A METHOD OF PAYMENT; PROVIDING FOR REVIEW OF THE CREDITS BY THE REVENUE INTERIM COMMITTEE; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-30-2303 AND 17-8-301, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Use of gold and silver coin or electronic gold currency to pay tax liabilities -- use in commerce -- rulemaking -- definitions. (1) The department of revenue may not require but shall allow a taxpayer to use or employ gold and silver coin or electronic gold currency as media of exchange with respect to the payment of any tax or fee imposed by Title 16 or this title that is administered and collected by the department of revenue.

(2) The department may authorize or create a state composite media of exchange that contains multiples of gold in amounts of one-thousandth of an ounce units that must be referred to as "Treasure State bucks" or "Montana Oro y Plata". In creating a state media of exchange, the department shall consider composite media of exchange authorized or created by all states that authorize or produce gold media of exchange and adopt a standard that has been successful in another state.

(3) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this section.

(4) As used in this section, the following definitions apply:

(a) "Electronic gold currency" means a specifically defined amount of gold, measured in an



1 electronic gold currency unit, that an electronic gold currency payment provider makes available to its
2 customers as a medium of exchange.

3 (b) "Electronic gold currency payment provider" or "provider" means a person that:

4 (i) deals in an electronic gold currency;

5 (ii) provides all the services, performs all the functions, and meets all the standards set out in this
6 section or adopted by rule to implement this section; and

7 (iii) provides the option to exchange the electronic gold currency for tangible gold in an amount
8 equal to the defined fixed weight of the gold within 3 business days of the request.

9 (c) "Electronic gold currency unit" means a unit of monetary account that represents a customer's
10 claim of title and ownership to a specifically defined, fixed weight of gold that may be transferred among
11 customers' accounts maintained by an electronic gold currency payment provider.

12 (d) (i) "Gold and silver coin" means:

13 (A) gold coins, including:

14 (I) United States American eagle coins, of all denominations, minted pursuant to the Gold Bullion
15 Coin Act of 1985, Public Law 99-185;

16 (II) Austrian 100 and 20 corona, and 4 and 1 ducat;

17 (III) British sovereign;

18 (IV) Canadian 1 and 1/10 maple leaf;

19 (V) French 20 franc;

20 (VI) Mexican 50, 20, 10, 5, and 2.5 peso;

21 (VII) south African 1, 1/2, 1/4, and 1/10 krugerrand;

22 (VIII) Swiss 20 franc; and

23 (IX) Treasure State bucks or Montana Oro y Plata as provided in subsection (2); and

24 (B) silver coins, including:

25 (I) United States dollars, so denominated and whenever minted, that were or are required by the
26 statutes authorizing their coinage to contain 371.25 grains (troy) of fine silver for each dollar, as "dollar" is
27 referred to in Article I, section 9, of the United States constitution and the seventh amendment to the United
28 States constitution, the value of which was established in The Coinage Act of April 2, 1792, 1 Stat. 246;

1 (II) United States half dollars, quarter dollars, and dimes, denominated as half dollars, quarter
2 dollars, or dimes, whenever minted, that were or are required by the statutes authorizing their coinage to
3 contain fine silver in amounts proportionate to the constitutional silver dollar of 371.25 grains (troy) of fine silver
4 for each dollar;

5 (III) United States American eagle or liberty coins minted pursuant to the Liberty Coin Act of July 9,
6 1985, Public Law 99-61, 99 Stat. 113, 115;

7 (IV) Canadian maple leaf; and

8 (V) any combination of gold and silver coin or of gold coin alone or of silver coin alone, as the
9 context may require, indicate, or allow.

10 (ii) The term does not include any gold or silver coin or any legal tender of the United States that
11 has a recognized numismatic or collectors' character and value above its face or nominal value.

12 (e) (i) "Legal tender of the United States" means:

13 (A) all coins of the United States, whenever minted, that were or are required by the statutes
14 authorizing their issuance to be composed of fine silver or fine gold to the extent of less than 85%, by weight;

15 (B) all coins of the United States, whenever minted, that were or are required by the statutes
16 authorizing their issuance to be composed solely of base metals; and

17 (C) all paper currencies emitted by the United States or by any person or any other legally
18 recognized entity acting under color of the laws of the United States, whenever issued, that are not in law
19 guaranteed redeemable and in fact being redeemed, dollar for dollar, in gold and silver coin of the United
20 States that were or are required by the statutes authorizing their issuance to be composed of fine silver or fine
21 gold to the extent of 85% or more, by weight.

22 (ii) The term does not include:

23 (A) any gold and silver coin described in subsection (4)(d)(ii), notwithstanding that the coins may
24 have been or are designated legal tender under the laws of the United States; or

25 (B) composite media of exchange approved or created by a state that contains gold in amounts of
26 one-thousandth of an ounce, including but not limited to Wyoming Goldbacks and Utah Goldbacks.

27

28 **NEW SECTION. Section 2. Gold and silver coin or electronic gold currency tax credit. (1) A**

1 taxpayer is allowed a credit against the tax imposed by chapter 31 or this chapter in an amount equal to 1% of
2 the value of gold and silver coin or electronic gold currency used as a method of payment for any tax that is
3 payable under [section 1].

4 (2) The amount of the credit may not exceed the lesser of the taxpayer's tax liability or \$10,000
5 and may not be carried forward or carried back.

6 (3) The department may adopt rules, prepare forms, and maintain records that are necessary to
7 implement this credit.

8 (4) As used in this section, gold and silver coin and electronic gold currency have the same
9 meaning as those terms are defined in [section 1].

10

11 **NEW SECTION. Section 3. Corporate tax credit for gold and silver or electronic currency tax**

12 **payments.** (1) There is a tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is
13 allowable in the amount established pursuant to [section 2] when a taxpayer uses gold and silver coin or
14 electronic gold currency as a method of payment for any tax that is payable under [section 1]. The credit is
15 administered as provided in [section 2], and this section.

16 (2) If the credit allowed under this section is claimed by a small business corporation as defined in
17 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or
18 partners using the same proportion as used to report the entity's income or loss.

19

20 **Section 4.** Section 15-30-2303, MCA, is amended to read:

21 **"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits
22 must be reviewed during the biennium commencing July 1, 2019, and during each biennium commencing 10
23 years thereafter:

- 24 (a) the credit for contractor's gross receipts provided for in 15-50-207; and
- 25 (b) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

26 (2) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and
27 during each biennium commencing 10 years thereafter:

- 28 (a) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-

1 30-3110, and 15-31-158; ~~and~~

2 (b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-
3 30-3111, and 15-31-159; and

4 (c) the credit for using gold and silver coin or electronic gold currency as a method of payment for
5 a tax liability as provided in [sections 2 and 3].

6 (3) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and
7 during each biennium commencing 10 years thereafter:

8 (a) the credit for infrastructure use fees provided for in 17-6-316;

9 (b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-
10 2329, 15-31-161, and 15-31-162; and

11 (c) the credit for property to recycle or manufacture using recycled material provided for in Title 15,
12 chapter 32, part 6.

13 (4) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and
14 during each biennium commencing 10 years thereafter:

15 (a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

16 (b) the credit for unlocking state lands provided for in 15-30-2380;

17 (c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and

18 (d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174.

19 (5) The following tax credits must be reviewed during the biennium commencing July 1, 2027, and
20 during each biennium commencing 10 years thereafter:

21 (a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357
22 and 15-31-173;

23 (b) the earned income tax credit provided for in 15-30-2318; and

24 (c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

25 (6) The revenue interim committee shall review the tax credits scheduled for review and make
26 recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about
27 whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date
28 or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or

1 terminate.

2 (7) The revenue interim committee shall review the credits using the following criteria:

3 (a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions
4 that may have been made regardless of the existence of the tax credit;

5 (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

6 (c) whether the credit has out-of-state beneficiaries;

7 (d) the timing of costs and benefits of the credit and how long the credit is effective;

8 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
9 elimination outweigh adverse impacts; and

10 (f) the extent to which benefits of the credit affect the larger economy. (Subsection (4)(d)

11 terminates December 31, 2026--sec. 7, Ch. 248, L. 2021; subsection (4)(c) terminates December 31, 2028--

12 sec. 24(1), Ch. 550, L. 2021.)"

13

14 **Section 5.** Section 17-8-301, MCA, is amended to read:

15 **"17-8-301. State money -- how expended by treasurer.** (1) Except as provided in this section,
16 money received by the state treasurer may not be paid out except upon a state warrant issued by the treasurer
17 or on electronic funds transfer authorized by the state treasurer. The state treasurer may not issue a warrant or
18 authorize an electronic funds transfer upon the state treasury except upon a claim approved by the department
19 of administration in accordance with the laws governing the expenditure of state money. However, interest and
20 principal on the public debt may be paid by treasurer's check from the money pledged for payment, and the
21 provisions of this section do not apply to warrants issued upon contingent revolving accounts that are in the
22 custody of the state treasurer.

23 (2) (a) As used in 2-18-405 and this section, "electronic funds transfer" means any transfer of
24 funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an
25 electronic terminal, telephonic instrument, computer, or magnetic tape and that orders, instructs, or authorizes
26 the state treasurer to debit or credit an account.

27 (b) As used in this section, money includes gold and silver coin and electronic gold currency as
28 those terms are defined in [section 1]."

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NEW SECTION. Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 1, part 2, and the provisions of Title 15, chapter 1, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the provisions of Title 15, chapter 31, part 1, apply to [section 3].

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

NEW SECTION. Section 8. Applicability. [This act] applies to gold and silver coin or electronic gold currency used as a method of payment for any tax that is payable after December 31, 2023.

- END -