



AN ACT GENERALLY REVISING CRYPTOCURRENCY LAWS; PROHIBITING DISCRIMINATORY DIGITAL ASSET MINING UTILITY RATES; PROHIBITING LOCAL GOVERNMENT POWERS RELATED TO DIGITAL ASSET MINING; PROHIBITING TAXATION ON THE USE OF CRYPTOCURRENCY AS A PAYMENT METHOD; PROVIDING FOR DIGITAL ASSETS AS PERSONAL PROPERTY; AMENDING SECTIONS 15-1-101 AND 70-1-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, digital asset mining provides positive economic value for individuals and companies throughout the United States; and

WHEREAS, digital asset mining has often faced difficulty with regulations at the state and local level; and

WHEREAS, the State of Montana wants to protect the right of individuals and businesses to mine digital assets and create legal certainty for the digital asset mining industry; and

WHEREAS, digital asset mining has the potential to stabilize the grid and provide revenue for infrastructure upgrades statewide.

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

Section 1. Digital asset mining ratemaking. (1) The commission may not establish a rate classification for digital asset mining, digital asset mining businesses, or home digital asset mining that creates unduly discriminatory rates.

(2) For the purposes of this section, the following definitions apply:

(a) "Data center" means a use involving a building or premises in which the majority of the use is occupied by computers, telecommunications, or related equipment, including supporting equipment, where information is processed, transferred, and stored.

(b) "Digital asset mining" means the use of electricity to power a computer for the purpose of securing a blockchain network.

(c) "Digital asset mining business" means a group of computers working at a single site that consume more than 1 megawatt of energy on an average annual basis for the purpose of generating digital assets by securing a blockchain network.

(d) "Discriminatory rates" means electricity rates substantially different from other industrial similar uses of electricity in similar geographic areas after accounting for the cost of service.

(e) "Home digital asset mining" means mining digital assets in areas zoned for residential use that consume less than 1 megawatt of energy on an average annual basis for the purpose of generating digital assets by securing a blockchain network.

Section 2. Digital assets taxation. (1) Digital assets used as a method of payment may not be subject to any additional tax, withholding, assessment, or charge by the state or a local government that is based solely on the use of the digital asset as the method of payment.

(2) Nothing in this section prohibits the state or a local government from imposing or collecting a tax, withholding, assessment, or charge otherwise authorized by Titles 15 or 16.

Section 3. Right to mine digital assets. (1) A governing body of a city or town, the governing bodies of more than one city or town, the governing body of a county, or any combination of those governing bodies may not enact an ordinance, resolution, or rule that:

(a) imposes requirements on a digital asset mining business that are not also requirements for data centers in its area of jurisdiction;

(b) prevents a digital asset mining business from operating in an area zoned for industrial use; or

(c) prevents home digital asset mining at a private residence, except as related to existing noise ordinances.

(2) Any digital asset mining business operating on or before the [effective date of this act] may continue to operate regardless of any change in zoning or regulations.

Section 4. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

- (a) The term "agricultural" refers to:
 - (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and
 - (ii) the raising of domestic animals and wildlife in domestication or a captive environment.
- (b) The term "assessed value" means the value of property as defined in 15-8-111.
- (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.
- (d) (i) The term "commercial", when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, including industrial property defined in subsection (1)(j), and excluding property described in subsection (1)(d)(ii).
 - (ii) The following types of property are not commercial:
 - (A) agricultural lands;
 - (B) timberlands and forest lands;
 - (C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;
 - (D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade; and
 - (E) all property described in 15-6-135.
- (e) The term "comparable property" means property that:
 - (i) has similar use, function, and utility;
 - (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and
 - (iii) has the potential of a similar highest and best use.
- (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The term "digital assets" means cryptocurrencies, natively electronic assets, including stable coins and nonfungible tokens, and other digital-only assets that confer economic, proprietary, or access rights or powers.

~~(h)(i)~~ The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

~~(j)(i)~~ The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

~~(j)(k)~~ "Industrial property" for purposes of this section includes all land used for industrial purposes, improvements, and buildings used to house the industrial process and all storage facilities. Under this section, industrial property does not include personal property classified and taxed under 15-6-135 or 15-6-138.

~~(k)(l)~~ The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

~~(l)(m)~~ The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

~~(m)(n)~~ (i) The term "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.

(ii) A manufactured home does not include a mobile home, as defined in subsection (1)~~(e)(p)~~, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

~~(a)(o)~~ The term "market value" means the value of property as provided in 15-8-111.

~~(e)(p)~~ The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

~~(p)(q)~~ The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in 15-6-218.

~~(e)(r)~~ The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(s)~~ The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

~~(e)(t)~~ The term "real estate" includes:

- (i) the possession of, claim to, ownership of, or right to the possession of land;
- (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;
- (iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and
- (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

~~(t)(u)~~ "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

~~(u)(v)~~ "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical

analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

~~(w)~~(w) The term "stock in trade" means any mobile home, manufactured home, or house trailer that is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

~~(w)~~(x) The term "taxable value" means the market value multiplied by the classification tax rate as provided for in Title 15, chapter 6, part 1.

~~(y)~~(y) The term "taxes" in relation to property under 15-6-133, 15-6-134, or 15-6-143 is the amount owed by a taxpayer that is the market value multiplied by the tax rate multiplied by the applicable mills, exclusive of local fees and assessments.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city, incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board", "Montana board", or "board" when used without other qualification means the Montana tax appeal board."

Section 5. Section 70-1-108, MCA, is amended to read:

"70-1-108. Personal property defined. (1) Every kind of property that is not real is personal.

(2) Digital assets are considered personal property.

(3) For the purposes of this section, "digital assets" means cryptocurrencies, natively electronic assets, including stable coins and nonfungible tokens, and other digital-only assets that confer economic, proprietary, or access rights or powers."

Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [section 1].

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

(3) [Section 3] is intended to be codified as an integral part of Title 76, chapter 2, and the provisions of Title 76, chapter 2, apply to [section 3].

Section 7. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 178, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 178

INTRODUCED BY D. ZOLNIKOV

AN ACT GENERALLY REVISING CRYPTOCURRENCY LAWS; PROHIBITING DISCRIMINATORY DIGITAL ASSET MINING UTILITY RATES; PROHIBITING LOCAL GOVERNMENT POWERS RELATED TO DIGITAL ASSET MINING; PROHIBITING TAXATION ON THE USE OF CRYPTOCURRENCY AS A PAYMENT METHOD; PROVIDING FOR DIGITAL ASSETS AS PERSONAL PROPERTY; AMENDING SECTIONS 15-1-101 AND 70-1-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.