COMMITTEE REPORT

March 28, 2012

**H. 4128**

Introduced by Reps. Pitts, Atwater, Toole, Chumley, Delleney, Hosey, D.C. Moss, G.R. Smith, Williams, Willis, Huggins, Bingham, Quinn and Bedingfield

S. Printed 3/28/12--H.

Read the first time April 26, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4128) to amend the Code of Laws os South Carolina, 1976, by adding Article 18 to Chapter 1, Title 1 so as to provide that gold or silver coin, or both, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 1, Title 1 of the 1976 Code is amended by adding:

“Article 18

Gold and Silver as Legal Tender

Section 1‑1‑1110. (A) To the full extent allowed by Article I, Section 10, Clause 1 of the Constitution of the United States, minted gold and silver coins shall be legal tender in the State of South Carolina under the laws of this State.

(B) Any person may employ gold or silver coin, or both, as legal tender in this State under its laws for payment of any debt private or public.

(C) No person may be compelled to accept or tender gold or silver coin, minted or otherwise.

Section 1‑1‑1130. A transaction for the purchase of gold or silver coin shall not be subject to ad valorem or sales tax imposed by South Carolina.”

SECTION 2. Chapter 1, Title 1 of the 1976 Code is amended by adding:

“Article 26

Joint Committee for the Adoption of an Alternate Form of Currency

Section 1‑1‑1710. There is established the Joint Committee on Adoption of an Alternate Currency composed of nine members. The nine members must be appointed as follows:

(1) three Senators appointed by the Chairman of the Senate Finance Committee;

(2) three members of the House of Representatives appointed by the Chairman of the Ways and Means Committee; and

(3) three representatives of the business community, one being a certified public accountant, appointed by the Governor.

Members of the Senate and House of Representatives serve ex officio. The committee chairman must be one of the legislative members and the vice chairman must be one of the business community members. Both officers are to be elected by the membership of the committee. The terms of members appointed by the Governor shall be coterminous with the term of the appointing Governor.

Section 1‑1‑1720. The committee must make a detailed and careful study of the need, means, and schedule for establishing an alternate currency within the State of South Carolina.

Section 1‑1‑1730. The committee may:

(1) hold public hearings;

(2) receive testimony of members of the general public, any employees of the State or any other witnesses who may assist the committee in its duties; and

(3) call for assistance in the performance of its duties from any employees or agencies of the State or any of its political subdivisions.

Section 1‑1‑1740. The committee may adopt by majority vote rules not inconsistent with this chapter it considers proper with respect to matters relating to the discharge of its duties under this chapter.

Section 1‑1‑1750. Professional and clerical services for the committee must be made available from the staffs of the General Assembly, the State Budget and Control Board, the Office of the State Treasurer, and other state agencies and institutions.

Section 1‑1‑1760. The committee must make reports and recommendations to the General Assembly and the Governor by June 30, 2012, at which time the committee will be dissolved. These findings and recommendations must be published and made available to the public.

Section 1‑1‑1770. The members of the committee are entitled to receive the per diem, mileage, and subsistence as is allowed by law for members of boards, committees, and commissions when engaged in the exercise of their duties as members of the committee. These expenses must be paid from approved accounts of their respective appointing authority. All other costs and expenses of the committee must be paid in equal proportion by the Senate, the House of Representatives, and the Office of the Governor, but only after the expenditures have been approved in advance by the President Pro Tempore of the Senate, the Speaker of the House, and the Governor.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OS SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 1, TITLE 1 SO AS TO PROVIDE THAT GOLD OR SILVER COIN, OR BOTH, SHALL BE LEGAL TENDER IN THIS STATE FOR PAYMENT OF CERTAIN DEBTS; AND BY ADDING ARTICLE 26 TO CHAPTER 1, TITLE 1 SO AS TO ESTABLISH A JOINT COMMITTEE FOR THE ADOPTION OF AN ALTERNATE FORM OF CURRENCY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 1 of the 1976 Code is amended by adding:

“Article 18

Gold and Silver as Legal Tender

Section 1-1-1110. For the purposes of this article:

(1) ‘Gold and silver coin’ means all gold and silver coin as are allowable for a state to:

(a) make a tender in payment of debts under the authority reserved to the several states in Article I, Section 10, Clause 1 of the Tenth Amendment to the Constitution of the United States; or

(b) employ as its own media of exchange in the performance of its sovereign governmental functions.

(2) ‘Legal tender’ means a medium of exchange, currency, or money that may be accepted for the satisfaction of debts under the laws of the State of South Carolina or the United States.

(3) ‘Debt’ means any public or private obligation, tax or other public charge, or other provision in any contract, agreement, law, or regulation that requires and stipulates the payment of, or by the terms of which is payable in, some medium of exchange, currency, or money.

(4) ‘Person’ includes the State of South Carolina, and all natural persons, corporations, partnerships, trusts, labor unions, and unincorporated associations that reside or transact business or other operations within the State.

(5) ‘State of South Carolina’ means the State of South Carolina and its political subdivisions, and all departments, agencies, officials, and employees of the State.

Section 1-1-1120. (A) To the full extent allowed by Article I, Section 10, Clause 1 of the Tenth Amendment to the Constitution of the United States, gold and silver coins shall be legal tender in the State of South Carolina under the laws of this State.

(B) Any person may employ gold or silver coin, or both, as legal tender in this State under its laws for payment of any debt to which that person is a party.

(C) If by its terms a debt requires payment in gold or silver coin, or both, then the only allowable medium of exchange for payment of it is gold or silver coin, or both, as the debt stipulates. In any case or controversy involving the enforcement of a debt, the courts of this State shall specifically enforce payment in gold or silver coin, or both.

(D) If by its terms a debt requires payment in some medium of exchange other than gold or silver coin, or both, the parties to the debt may mutually agree to payment of it with gold or silver coin, or both, at a rate of exchange between the other medium of exchange originally stipulated in the debt and gold or silver coin, or both, as the parties find to be appropriate and formally memorialize in an addendum to the debt. In any case or controversy involving the enforcement of a debt as so modified, the courts of this State shall specifically enforce payment in gold or silver coin, or both, according to the terms of the addendum.

(E) No party to a debt which stipulates that payment is to be made in a medium of exchange other than gold or silver coin, and which shall not have been modified in accordance with subsection (D) of the this Section, shall be compelled to tender or accept gold or silver coin in the satisfaction of the debt.

(F) Except as required in subsections (C) and (D) of this section, the designation and allowance for employment of gold and silver coin as legal tender in and under this article shall not preclude or prejudice the use by a person for a legal purpose of a medium of exchange, currency, or money, in addition to gold and silver coin, which has been designated legal tender under the laws of the United States.

Section 1-1-1130. (A) A transaction entered into by a person subject to this article which involves the exchange of gold or silver coin which shall be legal tender under the terms of this article for a medium of exchange, other than gold or silver coin, which has been designated legal tender under the laws of the United States shall not be subject to any sales, excise, gross receipts, income, capital gains, or other form of tax or public charge under the laws of this State.

(B) Any official, agent, or employee of this State who attempts to assess, levy, collect, or enforce, or direct, assist, or participate in the enforcement of, any purported tax or public charge prohibited by subsection (A) of this section is subject in his individual capacity to a civil suit by the party against which any assessment, levy, collection, or other enforcement has been attempted and upon proof of it by the preponderance of the evidence is personally liable to the party for damages of one hundred times the amount of money at issue in the attempted assessment, levy, collection, or other type of enforcement, and in addition shall be required to recompense the party for all costs of suit, including reasonable attorneys fees, for which damages, costs, and fees the court shall enter judgment against and require payment by the defendant in gold or silver coin, or both. No part of the judgment shall be paid, reimbursed, contributed to, guaranteed, or insured by this State.”

SECTION 2. Chapter 1, Title 1 of the 1976 Code is amended by adding:

“Article 26

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SECTION 3. This act takes effect upon approval by the Governor.

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