

SENATE BILL No. 513

By Committee on Federal and State Affairs

2-14

1 AN ACT concerning precious metals; relating to gold and silver bullion
2 and specie; enacting the Kansas specie legal tender act; providing that
3 gold and silver specie is legal tender; authorizing the state treasurer to
4 adopt rules and regulations allowing the use of approved electronic
5 currencies backed by specie legal tender; enacting the Kansas bullion
6 depository act; authorizing the state treasurer to establish, administer or
7 contract for the administration of bullion depositories; allowing state
8 moneys to be deposited in such bullion depositories and invested in
9 specie legal tender; amending K.S.A. 2023 Supp. 75-4209 and
10 repealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. The provisions of sections 1 through 6, and
14 amendments thereto, shall be known and may be cited as the Kansas
15 specie legal tender act.

16 New Sec. 2. As used in the Kansas specie legal tender act:

17 (a) "Act" means the Kansas specie legal tender act.

18 (b) "Approved currency" means an electronic currency approved by
19 the state treasurer for use as a valid form of payment within Kansas in
20 accordance with section 5, and amendments thereto.

21 (c) "Bullion" means refined gold or silver in any shape or form with
22 uniform content and purity, including, but not limited to, coins, rounds,
23 bars, ingots or any other product that is:

24 (1) Stamped or imprinted with the weight and purity of the gold or
25 silver that it contains; and

26 (2) valued primarily based on its metal content and not on its form
27 and function.

28 (d) "Electronic currency" means a representation of actual precious
29 metals, specie or bullion held in a depository account that may be
30 transferred by electronic instruction. Such representation shall reflect the
31 exact units of physical precious metals, specie or bullion in such
32 depository account in its fractional troy ounce measurement as provided in
33 this act.

34 (e) "Specie legal tender" means gold or silver coin or bullion,
35 including, but not limited to, gold or silver coin issued by the United
36 States.

1 New Sec. 3. (a) Specie legal tender shall be legal tender in the state.

2 (b) The exchange of one type of specie legal tender for another type
3 of legal tender shall not give rise to any tax liability except for taxable
4 distributions from any retirement plan account that holds specie.

5 (c) Except as expressly provided by contract, a person shall not
6 compel another person to tender or accept specie as legal tender.

7 (d) Specie legal tender may be recognized to pay private debts, taxes
8 and fees levied by the state or any political subdivision thereof.

9 (e) Nothing shall preclude the use of specie legal tender for the
10 issuance or repayment of any bond, surety or other debt obligation
11 authorized or required by law if permitted by the resolution or agreement
12 securing such bond, surety or other debt obligation.

13 (f) If a valid and enforceable contract expressly designates a type of
14 specie as legal tender, the court that is asked to adjudicate a breach of such
15 contract shall require, as a remedy for a breach, the specific performance
16 of tendering the type of specie specified in such contract.

17 New Sec. 4. (a) No bullion shall be characterized as personal property
18 for taxation or regulatory purposes.

19 (b) The purchase or sale of any type or form of bullion shall not give
20 rise to any tax liability.

21 New Sec. 5. (a) Subject to the requirements of this section, the state
22 treasurer shall adopt rules and regulations to approve and allow the use of
23 one or more electronic currencies as a valid form of payment within the
24 state. Such approved currency shall be legal tender in the state.

25 (b) Such rules and regulations shall:

26 (1) Ensure an approved currency is:

27 (A) Administered by a vendor selected in accordance with the
28 provisions of K.S.A. 75-3739, and amendments thereto; and

29 (B) backed by specie legal tender so that each unit of such approved
30 currency represents a fraction of specie legal tender by weight;

31 (2) ensure that specie legal tender described in paragraph (1)(B) is:

32 (A) Deposited in a secure vault located within the state and approved
33 by the state treasurer; and

34 (B) directly allocated to and held for the benefit of any person
35 holding the approved currency;

36 (3) ensure that a vault described in paragraph (2)(A) is subject to:

37 (A) Security and insurance requirements established by the state
38 treasurer; and

39 (B) audit and inspection requirements to confirm that any specie legal
40 tender deposited in such vault is properly secured and is of a quantity that
41 corresponds to the number of units of approved currency issued;

42 (4) ensure that a holder of an approved currency is able to:

43 (A) Purchase any number of available units of such approved

- 1 currency from the applicable vendor;
- 2 (B) transfer such approved currency to another person through
3 electronic means;
- 4 (C) exchange such approved currency for other forms of legal tender
5 at the appropriate market rate;
- 6 (D) redeem such approved currency for the corresponding amount of
7 specie legal tender from the applicable vendor, subject to any criteria or
8 qualifications for redemption established by the state treasurer; and
- 9 (E) use such approved currency for the payment of any tax or fee
10 administered by the department of revenue;
- 11 (5) establish standards and procedures for:
- 12 (A) Qualifying an electronic currency as an approved currency;
- 13 (B) selecting a vendor to administer an approved currency;
- 14 (C) approving a vault for the deposit of specie legal tender;
- 15 (D) detecting and preventing fraud in connection with an approved
16 currency; and
- 17 (E) revoking the status of an electronic currency as an approved
18 currency; and
- 19 (6) establish any other requirements to implement the provisions of
20 this section.
- 21 (c) In adopting the rules and regulations required by this section, the
22 state treasurer may:
- 23 (1) Consult with public or private entities with expertise in the
24 regulation or administration of electronic currencies; and
- 25 (2) establish and collect fees to pay for the costs associated with
26 adopting rules and regulations and the administration of this section.
- 27 (d) The state treasurer shall submit a report to the legislature on or
28 before the first day of the regular session of the legislature each year
29 regarding the status of approved currencies under this section, including
30 any recommendations for statutory changes to improve the state treasurer's
31 effectiveness in implementing this section.
- 32 New Sec. 6. The attorney general shall enforce this act without
33 prejudice to any private right of action.
- 34 New Sec. 7. The provisions of sections 7 through 16, and
35 amendments thereto, shall be known and may be cited as the Kansas
36 bullion depository act.
- 37 New Sec. 8. As used in the Kansas bullion depository act:
- 38 (a) "Act" means the Kansas bullion depository act.
- 39 (b) "Administrator" means the individual or entity appointed by the
40 state treasurer to oversee the operation and management of the
41 depositories.
- 42 (c) "Bullion" means refined gold or silver in any shape or form with
43 uniform content and purity, including, but not limited to, coins, rounds,

1 bars, ingots or any other product that is:

2 (1) Stamped or imprinted with the weight and purity of the gold or
3 silver that it contains; and

4 (2) valued primarily based on its metal content and not on its form
5 and function.

6 (d) "Depository" means a bullion depository established by this act.

7 (e) "Depository account" means an account established with a
8 depository to facilitate the storage, transfer and exchange of bullion.

9 (f) "Electronic currency" means a representation of actual precious
10 metals, specie or bullion held in a depository account that may be
11 transferred by electronic instruction. Such representation shall reflect the
12 exact units of physical precious metals, specie or bullion in such
13 depository account in its fractional troy ounce measurement as provided in
14 this act.

15 (g) "Precious metal" means gold or silver.

16 (h) "Specie" means bullion fabricated into products of uniform shape,
17 size, design, content, weight and purity that is suitable for or customarily
18 used as currency, as a medium of exchange or as the medium for purchase,
19 sale, storage, transfer or delivery of precious metals in retail or wholesale
20 transactions.

21 (i) "Specie legal tender" means gold or silver coin or bullion,
22 including, but not limited to, gold or silver coin issued by the United
23 States.

24 New Sec. 9. (a) The state treasurer may:

25 (1) Establish and administer bullion depositories to provide a secure
26 location for the storage of bullion; or

27 (2) contract with a third party to act as the administrator to manage
28 the day-to-day operations of the depositories and implement the
29 depositories' security, storage and transactional and administrative
30 procedures in accordance with this act.

31 (b) As used in this section, "security" means physical, online and
32 logical security standards that meet generally accepted standards within
33 the information assurance industry.

34 New Sec. 10. (a) A person, an individual, a corporation, a partnership,
35 a company, an association, a trust, an estate and a governmental entity,
36 may establish a depository account by entering into a depository
37 agreement with a depository.

38 (b) A depository account holder may purchase, sell, deposit or
39 withdraw bullion through the holder's account in accordance with this
40 section and any rules and regulations adopted thereunder. A depository
41 shall have processes and systems to facilitate timely bullion purchases,
42 sales, deposits and withdrawals, including, but not limited to:

43 (1) Physical deposits and withdrawals to and from the depository's

1 physical location, or a partner organization such as a major mint or refiner
2 capable of providing bullion that meets standards established by the state
3 treasurer; and

4 (2) electronic systems that meet current industry standards for the
5 purchase and sale of bullion for depository account holders that cannot or
6 choose not to travel to the physical location.

7 (c) State agencies, counties, municipalities and other governmental
8 entities may use a depository for storing bullion. The state treasurer may
9 deposit a portion of state moneys into a depository in the form of bullion
10 and such bullion shall be considered part of the state's official financial
11 reserves. The state treasurer shall develop guidelines for the state's use of
12 depositories. All deposits of state moneys into a depository shall be
13 secured by a pledge of securities as provided in K.S.A. 75-4218, and
14 amendments thereto.

15 (d) The administrator shall maintain a record of all depository
16 accounts and all transactions, deposits and withdrawals associated with
17 each account. Such records shall be provided to the state treasurer within
18 five business days after the state treasurer's request. All records shall be
19 kept and maintained, at a minimum, on an approved state computer system
20 for a period of at least seven years.

21 New Sec. 11. (a) The administrator shall ensure that a depository has
22 state-of-the-art security measures to prevent theft, fraud or other
23 unauthorized access or removal of bullion.

24 (b) A depository shall maintain insurance coverage sufficient to cover
25 the full value of all bullion stored at the depository. Such insurance shall
26 be provided by an insurer that is rated "A" or higher by an best company
27 or an equivalent rating by another national rating service acceptable to the
28 administrator.

29 (c) An independent third party shall conduct audits at least twice a
30 year to verify the amount and value of bullion stored in a depository and to
31 inspect the security measures and protocols in place. Such independent
32 third party shall be an established provider with a good history of
33 providing such auditing service. Documentation of audit results shall be
34 made available within a reasonable timeframe to the public upon request.
35 Documentation shall include, at a minimum, summary totals of precious
36 metal amounts assessed, as well as documentation of any discrepancies
37 found during the audit.

38 (d) A depository shall comply all with federal and state laws
39 pertaining to bullion storage, management and transactions. The
40 administrator shall consult regularly with legal counsel to ensure that each
41 depository remains compliant with evolving laws and regulations.

42 New Sec. 12. (a) An employee or official associated with the
43 oversight or operation of a depository shall:

1 (1) Have no financial interests in companies or entities that produce,
2 sell or manage bullion; and

3 (2) disclose any potential conflict of interest to the state treasurer
4 immediately upon discovery.

5 (b) A violation of this section may result in the employee's or
6 official's removal from position, fines or other legal penalties as
7 determined by the state treasurer.

8 New Sec. 13. The state treasurer shall have all authority necessary to
9 enter into contractual agreements with third parties to administer this act.
10 The administrator may enter into contractual agreements with private
11 entities for the provision of services for bullion storage, transportation or
12 security. All contractual agreements shall be reviewed and approved by the
13 state treasurer to ensure that such agreements align with the state's interests
14 and security requirements.

15 New Sec. 14. (a) A depository shall not be terminated or transferred
16 to a private entity unless such termination or transfer is approved by an act
17 of the legislature. A depository termination or transfer shall ensure the
18 security of the bullion, the rights of account holders and the financial
19 interests of the state.

20 (b) The administrator shall provide a quarterly report to the state
21 treasurer detailing the operations, transactions and financial status of each
22 depository.

23 (c) The state treasurer shall provide an annual report to the legislature
24 on or before the first day of the regular session of the legislature regarding
25 the operations and financial status of each depository.

26 New Sec. 15. The state treasurer shall adopt rules and regulations
27 necessary to administer the provisions of this act, including, but not
28 limited to, rules and regulations for the establishment, operation, security
29 and administration of a depository.

30 New Sec. 16. (a) A purported confiscation, requisition, seizure or
31 other attempt to control the ownership, disposition or proceeds of a
32 withdrawal, transfer, liquidation or settlement of a depository account or
33 an electronic currency account, including the precious metals represented
34 by the balance of a depository account or an electronic currency account, if
35 effected by a governmental or quasi-governmental authority other than an
36 authority of this state or by a financial institution or other person acting on
37 behalf of or pursuant to a directive or authorization issued by a
38 governmental or quasi-governmental authority other than an authority of
39 this state, in the course of a generalized declaration of illegality or
40 emergency relating to the ownership, possession or disposition of one or
41 more precious metals, contracts or other rights to the precious metals,
42 contracts or derivatives of the ownership, possession, disposition, contracts
43 or other rights, is hereby declared to be null and void and shall have no

1 force or effect.

2 (b) A depository in the case of receiving notice of a purported
3 confiscation, requisition, seizure or other attempt to control the ownership,
4 disposition or proceeds of a withdrawal, transfer, liquidation or settlement
5 of a depository account or an electronic currency account, including the
6 precious metals represented by the balance of a depository account or an
7 electronic currency account, if effected by a governmental or quasi-
8 governmental authority other than an authority of this state or by a
9 financial institution or other person acting on behalf of or pursuant to a
10 directive or authorization issued by a governmental or quasi-governmental
11 authority other than an authority of this state, in the course of a generalized
12 declaration of illegality or emergency relating to the ownership, possession
13 or disposition of one or more precious metals, contracts or other rights to
14 the precious metals, contracts or derivatives of the ownership, possession,
15 disposition, contracts or other rights, shall not recognize the governmental
16 or quasi-governmental authority, financial institution or other person
17 acting as the lawful successor of the registered holder of the depository
18 account or the electronic currency account in question.

19 (c) Upon receipt of notice of any transaction described in subsection
20 (a), with respect to all or any portion of the balance of a depository
21 account or an electronic currency account, a depository shall suspend
22 withdrawal privileges associated with the balances of the depository
23 account or electronic currency account until suitable substitute
24 arrangements may be effected in accordance with rules and regulations of
25 the state treasurer to enable the registered account holder to take delivery
26 of the precious metals represented by the account balances in question. A
27 voluntary transfer of a depository account or an electronic currency
28 account balance or of a depository account or an electronic currency
29 account among depository account or electronic currency account holders
30 may continue to take place unaffected by the suspension, and the
31 depository shall recognize such voluntary transfer to the full extent
32 authorized by this section and rules and regulations adopted under this act.

33 (d) The state treasurer shall refer any matter relating to an action
34 described in subsection (a) to the attorney general for resolution.

35 Sec. 17. K.S.A. 2023 Supp. 75-4209 is hereby amended to read as
36 follows: 75-4209. (a) The director of investments may invest and reinvest
37 state moneys eligible for investment which are not invested in accordance
38 with K.S.A. 75-4237, and amendments thereto, in the following
39 investments:

40 (1) Direct obligations of, or obligations that are insured as to principal
41 and interest by, the United States of America or any agency thereof and
42 obligations and securities of the United States sponsored enterprises which
43 under federal law may be accepted as security for public funds, on and

1 after the effective date of this act moneys available for investment under
2 this subsection shall not be invested in mortgage-backed securities of such
3 enterprises and of the government national mortgage association, except
4 that any such mortgage-backed securities held prior to the effective date of
5 this act may be held to maturity;

6 (2) repurchase agreements with a bank or a primary government
7 securities dealer which reports to the market reports division of the federal
8 reserve bank of New York for direct obligations of, or obligations that are
9 insured as to principal and interest by, the United States government or any
10 agency thereof and obligations and securities of United States government
11 sponsored enterprises which under federal law may be accepted as security
12 for public funds;

13 (3) commercial paper that does not exceed 270 days to maturity and
14 which has received one of the two highest commercial paper credit ratings
15 by a nationally recognized investment rating firm; ~~and~~

16 (4) corporate bonds which have received one of the two highest
17 ratings by a nationally recognized investment rating firm; *and*

18 (5) *specie legal tender, as defined in section 2, and amendments*
19 *thereto.*

20 (b) When moneys are available for deposit or investments, the
21 director of investments may invest in SKILL act projects and bonds
22 pursuant to K.S.A. 74-8920, and amendments thereto, and in state agency
23 bonds and bond projects.

24 (c) When moneys are available for deposits or investments, the
25 director of investments may invest in preferred stock of Kansas venture
26 capital, inc., under terms and conditions prescribed by K.S.A. 74-8203,
27 and amendments thereto, but such investments shall not in the aggregate
28 exceed a total amount of \$10,000,000.

29 (d) When moneys are available for deposits or investments, the
30 director of investments may invest in loans pursuant to legislative
31 mandates, except that not more than the greater of 10% or \$140,000,000 of
32 the state moneys shall be invested. The provisions of this subsection shall
33 not apply to the provisions of subsection (m).

34 (e) Interest on investment accounts in banks is to be paid at maturity,
35 but not less than annually.

36 (f) Investments made by the director of investments under the
37 provisions of this section shall be made with judgment and care, under
38 circumstances then prevailing, which persons of prudence, discretion and
39 intelligence exercise in the management of their own affairs, not for
40 speculation, but for investment, considering the probable safety of their
41 capital as well as the probable income to be derived.

42 (g) Investments under subsection (a) or (b) or under K.S.A. 75-4237,
43 and amendments thereto, shall be for a period not to exceed four years,

1 except that linked deposits authorized under the provisions of K.S.A. 2-
2 3703 through 2-3707, and amendments thereto, shall not exceed a period
3 of 10 years; agricultural production loan deposits authorized under the
4 provisions of K.S.A. 75-4268 through 75-4274, and amendments thereto,
5 shall not exceed a period of eight years and housing loan deposits
6 authorized under K.S.A. 75-4276 through 75-4282, and amendments
7 thereto, shall not exceed a period of five years or 20 years, as applicable
8 pursuant to K.S.A. 75-4279, and amendments thereto.

9 (h) Investments in securities under subsection (a)(1) shall be limited
10 to securities which do not have any more interest rate risk than do direct
11 United States government obligations of similar maturities. For purposes
12 of this subsection, "interest rate risk" means market value changes due to
13 changes in current interest rates.

14 (i) The director of investments shall not invest state moneys eligible
15 for investment under subsection (a), in the municipal investment pool
16 fund, created under K.S.A. 12-1677a, and amendments thereto.

17 (j) The director of investments shall not invest moneys in the pooled
18 money investment portfolio in derivatives. As used in this subsection,
19 "derivatives" means a financial contract whose value depends on the value
20 of an underlying asset or index of asset values.

21 (k) Moneys and investments in the pooled money investment
22 portfolio shall be invested and reinvested by the director of investments in
23 accordance with investment policies developed, approved, published and
24 updated on an annual basis by the board. Such investment policies shall
25 include at a minimum guidelines which identify credit standards, eligible
26 instruments, allowable maturity ranges, methods for valuing the portfolio,
27 calculating earnings and yields and limits on portfolio concentration for
28 each type of investment. Any changes in such investment policies shall be
29 approved by the pooled money investment board. Such investment policies
30 may specify the contents of reports, methods of crediting funds and
31 accounts and other operating procedures.

32 (l) The board shall adopt rules and regulations to establish an overall
33 percentage limitation on the investment of moneys in investments
34 authorized under subsection (a)(3), and within such authorized investment,
35 the board shall establish a percentage limitation on the investment in any
36 single business entity.

37 ~~(m)-(1) During the fiscal year ending June 30, 2017, the director of~~
38 ~~the budget shall estimate on or before June 27, 2017, the amount of the~~
39 ~~unencumbered ending balance in the state general fund for fiscal year~~
40 ~~2017. If the amount of such unencumbered ending balance in the state~~
41 ~~general fund is less than \$50,000,000, the director of the budget shall~~
42 ~~certify the difference between \$50,000,000, and the amount of such~~
43 ~~unencumbered ending balance to the pooled money investment board.~~

1 Upon the liquidation of all investments and reinvestments of state moneys
2 pursuant to K.S.A. 75-2263(j), and amendments thereto, and upon receipt
3 of such certification by the director of the budget, during the fiscal year
4 ending June 30, 2017, the pooled money investment board shall authorize
5 the director of accounts and reports to transfer an amount equal to the
6 amount certified by the director of the budget pursuant to this subsection
7 from the pooled money investment portfolio to the state general fund.
8 Upon receipt of such authorization, the director of accounts and reports
9 shall make such transfer. The chairperson of the pooled money investment
10 board shall transmit a copy of such authorization to the director of
11 legislative research and the director of the budget.

12 (2) (A) On or before June 30, 2019, the director of accounts and
13 reports shall transfer an amount equal to $\frac{1}{6}$ of the amount transferred
14 pursuant to subsection (m)(1) from the state general fund to the pooled
15 money investment portfolio.

16 (B) On or before June 30, 2020, the director of accounts and reports
17 shall transfer an amount equal to $\frac{1}{2}$ of the amount transferred pursuant to
18 subsection (m)(1), reduced by the amount transferred pursuant to
19 subsection (m)(2)(A) from the state general fund to the pooled money
20 investment portfolio.

21 (C) On or before June 30, 2021, and June 30, 2022, during each such
22 fiscal year, the director of accounts and reports shall transfer an amount
23 equal to $\frac{1}{2}$ of the amount transferred pursuant to subsection (m)(1),
24 reduced by the amount transferred pursuant to subsection (m)(2)(A) and
25 (m)(2)(B) from the state general fund to the pooled money investment
26 portfolio.

27 (3) During the fiscal year ending June 30, 2018, after any transfer
28 made pursuant to subsection (m)(1), the pooled money investment board
29 shall authorize the director of accounts and reports to transfer the
30 remaining amount of all investments and reinvestments of state moneys
31 liquidated pursuant to K.S.A. 75-2263(j), and amendments thereto, from
32 the pooled money investment portfolio to the state general fund. Upon
33 receipt of such authorization, the director of accounts and reports shall
34 make such transfer. The chairperson of the pooled money investment
35 board shall transmit a copy of such authorization to the director of
36 legislative research and the director of the budget.

37 (4) (A) On or before June 30, 2019, the director of accounts and
38 reports shall transfer an amount equal to $\frac{1}{6}$ of the amount transferred
39 pursuant to subsection (m)(3) from the state general fund to the pooled
40 money investment portfolio.

41 (B) On or before June 30, 2020, the director of accounts and reports
42 shall transfer an amount equal to $\frac{1}{2}$ of the amount transferred pursuant to
43 subsection (m)(3), reduced by the amount transferred pursuant to

1 subsection (m)(4)(A) from the state general fund to the pooled money
2 investment portfolio.

3 ~~(C) On or before June 30, 2021, and June 30, 2022, during each such~~
4 ~~fiscal year, the director of accounts and reports shall transfer an amount~~
5 ~~equal to $\frac{1}{2}$ of the amount transferred pursuant to subsection (m)(3),~~
6 ~~reduced by the amount transferred pursuant to subsection (m)(4)(A) and~~
7 ~~(m)(4)(B) from the state general fund to the pooled money investment~~
8 ~~portfolio. Investments in specie legal tender under subsection (a)(5) shall~~
9 ~~not exceed 20% of the total amount of the pooled money investment~~
10 ~~portfolio at the time such investment is made.~~

11 Sec. 18. K.S.A. 2023 Supp. 75-4209 is hereby repealed.

12 Sec. 19. This act shall take effect and be in force from and after its
13 publication in the statute book.