Session of 2025

SENATE BILL No. 115

By Committee on Federal and State Affairs

1-30

AN ACT concerning precious metals; relating to gold and silver bullion and specie; enacting the Kansas bullion depository act; authorizing the state treasurer to establish, administer or contract for the administration of bullion depositories; allowing state moneys to be deposited in such bullion depositories and invested in specie legal tender; amending K.S.A. 2024 Supp. 75-4209 and repealing the existing section.

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

New Section 1. The provisions of sections 1 through 10, and amendments thereto, shall be known and may be cited as the Kansas bullion depository act.

New Sec. 2. As used in the Kansas bullion depository act:

(a) "Act" means the Kansas bullion depository act.

(b) "Administrator" means the individual or entity appointed by the state treasurer to oversee the operation and management of the depositories.

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

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

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

(d) "Depository" means a bullion depository established by section 9, and amendments thereto, or established by and located in another jurisdiction and designated as a depository by the state treasurer pursuant to section 3, and amendments thereto.

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

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

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

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

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

New Sec. 3. (a) The state treasurer may:

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

(2) contract with a third party to act as the administrator to manage the day-to-day operations of bullion depositories located in this state and implement the depositories' security, storage and transactional and administrative procedures in accordance with this act; or

(3) contract with one or more bullion depositories established and located in another jurisdiction for the secure storage and administration of bullion deposits made in accordance with this act.

(b) If the state treasurer enters into a contract pursuant to subsection (a)(3), the state treasurer shall designate the bullion depository named in such contract as an official state bullion depository.

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

New Sec. 4. (a) A person, an individual, a corporation, a partnership, a company, an association, a trust, an estate and a governmental entity, may establish a depository account by entering into a depository agreement with a depository.

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

(1) Physical deposits and withdrawals to and from the depository's physical location, or a partner organization such as a major mint or refiner capable of providing bullion that meets standards established by the state treasurer; and

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

(c) State agencies, counties, municipalities and other governmental entities may use a depository for storing bullion. The state treasurer may deposit a portion of state moneys into a depository in the form of bullion

and such bullion shall be considered part of the state's official financial reserves. The state treasurer shall develop guidelines for the state's use of depositories. All deposits of state moneys into a depository shall be secured by a pledge of securities as provided in K.S.A. 75-4218, and amendments thereto.

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

New Sec. 5. (a) The administrator shall ensure that a depository has state-of-the-art security measures to prevent theft, fraud or other unauthorized access or removal of bullion.

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

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

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

New Sec. 6. (a) An employee or official associated with the oversight or operation of a depository shall:

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

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

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

New Sec. 7. The state treasurer shall have all authority necessary to enter into contractual agreements with third parties to administer this act.

The administrator may enter into contractual agreements with private entities for the provision of services for bullion storage, transportation or security. All contractual agreements shall be reviewed and approved by the state treasurer to ensure that such agreements align with the state's interests and security requirements.

New Sec. 8. (a) A depository shall not be terminated or transferred to a private entity unless such termination or transfer is approved by an act of the legislature. A depository termination or transfer shall ensure the security of the bullion, the rights of account holders and the financial interests of the state.

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

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

New Sec. 9. The state treasurer shall adopt rules and regulations necessary to administer the provisions of this act, including, but not limited to, rules and regulations for the establishment, operation, security and administration of a depository.

New Sec. 10. (a) A purported confiscation, requisition, seizure or other attempt to control the ownership, disposition or proceeds of a withdrawal, transfer, liquidation or settlement of a depository account or an electronic currency account, including the precious metals represented by the balance of a depository account or an electronic currency account, if effected by a governmental or quasi-governmental authority other than an authority of this state or by a financial institution or other person acting on behalf of or pursuant to a directive or authorization issued by a governmental or quasi-governmental authority other than an authority of this state, in the course of a generalized declaration of illegality or emergency relating to the ownership, possession or disposition of one or more precious metals, contracts or other rights to the precious metals, contracts or derivatives of the ownership, possession, disposition, contracts or other rights, is hereby declared to be null and void and shall have no force or effect.

(b) A depository in the case of receiving notice of a purported confiscation, requisition, seizure or other attempt to control the ownership, disposition or proceeds of a withdrawal, transfer, liquidation or settlement of a depository account or an electronic currency account, including the precious metals represented by the balance of a depository account or an electronic currency account, if effected by a governmental or quasi-governmental authority other than an authority of this state or by a financial institution or other person acting on behalf of or pursuant to a

directive or authorization issued by a governmental or quasi-governmental authority other than an authority of this state, in the course of a generalized declaration of illegality or emergency relating to the ownership, possession or disposition of one or more precious metals, contracts or other rights to the precious metals, contracts or derivatives of the ownership, possession, disposition, contracts or other rights, shall not recognize the governmental or quasi-governmental authority, financial institution or other person acting as the lawful successor of the registered holder of the depository account or the electronic currency account in question.

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

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

Sec. 11. K.S.A. 2024 Supp. 75-4209 is hereby amended to read as follows: 75-4209. (a) The director of investments may invest and reinvest state moneys eligible for investment which are not invested in accordance with K.S.A. 75-4237, and amendments thereto, in the following investments:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of the United States sponsored enterprises which under federal law may be accepted as security for public funds, on and after the effective date of this act moneys available for investment under this subsection shall not be invested in mortgage-backed securities of such enterprises and of the government national mortgage association, except that any such mortgage-backed securities held prior to the effective date of this act may be held to maturity;

(2) repurchase agreements with a bank or a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any

agency thereof and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds;

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

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

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

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

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

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

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

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

(g) Investments under subsection (a) or (b) or under K.S.A. 75-4237, and amendments thereto, shall be for a period not to exceed four years, except that linked deposits authorized under the provisions of K.S.A. 2-3703 through 2-3707, and amendments thereto, shall not exceed a period of 10 years; agricultural production loan deposits authorized under the provisions of K.S.A. 75-4268 through 75-4274, and amendments thereto, shall not exceed a period of eight years and housing loan deposits authorized under K.S.A. 75-4276 through 75-4282, and amendments thereto, shall not exceed a period of five years or 20 years, as applicable pursuant to K.S.A. 75-4279, and amendments thereto.

(h) Investments in securities under subsection (a)(1) shall be limited

to securities which do not have any more interest rate risk than do direct United States government obligations of similar maturities. For purposes of this subsection, "interest rate risk" means market value changes due to changes in current interest rates.

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

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

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

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

(m) ~~(1) During the fiscal year ending June 30, 2017, the director of the budget shall estimate on or before June 27, 2017, the amount of the unencumbered ending balance in the state general fund for fiscal year 2017. If the amount of such unencumbered ending balance in the state general fund is less than $50,000,000, the director of the budget shall certify the difference between $50,000,000, and the amount of such unencumbered ending balance to the pooled money investment board. Upon the liquidation of all investments and reinvestments of state moneys pursuant to K.S.A. 75-2263(j), and amendments thereto, and upon receipt of such certification by the director of the budget, during the fiscal year ending June 30, 2017, the pooled money investment board shall authorize the director of accounts and reports to transfer an amount equal to the amount certified by the director of the budget pursuant to this subsection from the pooled money investment portfolio to the state general fund. Upon receipt of such authorization, the director of accounts and reports shall make such transfer. The chairperson of the pooled money investment~~

~~board shall transmit a copy of such authorization to the director of legislative research and the director of the budget.~~

~~(2) (A) On or before June 30, 2019, the director of accounts and reports shall transfer an amount equal to 1/6 of the amount transferred pursuant to subsection (m)(1) from the state general fund to the pooled money investment portfolio.~~

~~(B) On or before June 30, 2020, the director of accounts and reports shall transfer an amount equal to 1/2 of the amount transferred pursuant to subsection (m)(1), reduced by the amount transferred pursuant to subsection (m)(2)(A) from the state general fund to the pooled money investment portfolio.~~

~~(C) On or before June 30, 2021, and June 30, 2022, during each such fiscal year, the director of accounts and reports shall transfer an amount equal to 1/2 of the amount transferred pursuant to subsection (m)(1), reduced by the amount transferred pursuant to subsection (m)(2)(A) and (m)(2)(B) from the state general fund to the pooled money investment portfolio.~~

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

~~(4) (A) On or before June 30, 2019, the director of accounts and reports shall transfer an amount equal to 1/6 of the amount transferred pursuant to subsection (m)(3) from the state general fund to the pooled money investment portfolio.~~

~~(B) On or before June 30, 2020, the director of accounts and reports shall transfer an amount equal to 1/2 of the amount transferred pursuant to subsection (m)(3), reduced by the amount transferred pursuant to subsection (m)(4)(A) from the state general fund to the pooled money investment portfolio.~~

~~(C) On or before June 30, 2021, and June 30, 2022, during each such fiscal year, the director of accounts and reports shall transfer an amount equal to 1/2 of the amount transferred pursuant to subsection (m)(3), reduced by the amount transferred pursuant to subsection (m)(4)(A) and (m)(4)(B) from the state general fund to the pooled money investment portfolio~~ *Investments in specie legal tender under subsection (a)(5) shall not exceed 20% of the total amount of the pooled money investment*

portfolio at the time such investment is made.

Sec. 12. K.S.A. 2024 Supp. 75-4209 is hereby repealed.

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