

KANSAS OFFICE of
REVISOR of STATUTES

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MEMORANDUM

To: House Committee on Financial Institutions and Pensions

From: Office of Revisor of Statutes

Date: February 19, 2024

Subject: **HB 2729: Enacting the Kansas specie legal tender act and the Kansas bullion depository act, authorizing the state treasurer to approve electronic currencies backed by specie legal tender and establish, administer or contract for the administration of bullion depositories and allowing for state moneys to be deposited in such bullion depositories and invested in specie legal tender.**

House Bill No. 2729 enacts the Kansas specie legal tender act (Sections 1 through 6) and the Kansas bullion depository act (Sections 7 through 16).

Kansas specie legal tender act:

Section 1 provides the name and citation of the act

Section 2 provides definitions used in the act. "Specie legal tender" means gold or silver coin or bullion, including, but not limited to, gold or silver coin issued by the United States.

Section 3 provides that specie legal tender shall be legal tender in Kansas. The exchange of one type of specie legal tender for another type of legal tender shall not give rise to any tax liability except for taxable distributions from any retirement plan that holds specie. Specie legal tender may be recognized to pay private debts, taxes and fees levied by the state or a political subdivision.

Section 4 provides that no bullion shall be characterized as personal property or taxation or regulatory purposes and that the purchase or sale of bullion shall not give rise to any tax liability.

Section 5 requires the state treasurer to adopt rules and regulations to approve and allow the use of one or more electronic currencies as a valid form of payment within the state and any such approved currency shall be legal tender in the state.

Section 6 requires the attorney general to enforce the act without prejudice to any private right of action.

Kansas bullion depository act:

Section 7 provides the name and citation of the act.

Section 8 provides definitions used in the act.

Section 9 allows the state treasurer to establish and administer bullion depositories to provide a secure location for the storage of bullion. The treasurer may contract with a third party to act as administrator.

Section 10 allows individuals and entities to establish depository accounts with the bullion depository and to purchase, sell, deposit or withdraw bullion through the holder's account.

Section 11 requires that the depository have state-of-the-art security measures and maintain insurance coverage sufficient to cover the full value of all bullion stored at the depository. This section also requires an independent third party at least twice a year to conduct an audit to verify the amount and value of the bullion stored at the depository and to inspect the security measures and protocols in place.

Section 12 provides that an employee or official associated with the oversight or operation of a depository shall have no financial interests in bullion companies or entities and shall disclose any potential conflict of interest to the state treasurer. A violation of this section may result in removal from employment, fines or other legal penalties as determined by the state treasurer.

Section 13 gives the state treasurer authority to enter into contracts with third parties to administer the act and for services related to bullion storage, transportation or security.

Section 14 prohibits a depository from being terminated or transferred to a private entity unless approved by an act of the legislature. This section also requires the state treasurer to provide an annual report to the legislature regarding the operations and financial status of the depository.

Section 15 requires the state treasurer to adopt rules and regulations 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.

Section 16 declares null and void any confiscation, requisition, seizure or other attempt to control the precious metals or proceeds of a depository account if effected by a governmental or quasi-governmental authority other than an authority of Kansas. The state treasurer shall refer any matter relating to such an action to the attorney general for resolution.

Finally, section 17 amends K.S.A. 75-4209 to allow for the investment of state moneys in specie legal tender. Investments in specie legal tender shall not exceed 20% of the total amount of the pooled money investment portfolio at the time such investment is made.