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MEMORANDUM

To: Chairperson Thompson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: February 19, 2024

Subject: SB 513 – Creating the Kansas Specie Legal Tender Act and the Kansas Bullion Depository Act.

Senate Bill No. 513 (SB 513) would first create the Kansas Specie Legal Tender Act (Legal Tender Act). The Legal Tender Act would authorize gold and silver specie as legal tender in the State of Kansas. By agreement such specie could be exchanged as legal tender for goods and services. The exchange of specie legal tender would not create any tax liability except for taxable distributions from retirement plan accounts that hold such specie. SB 513 also declares gold and silver bullion as not personal property and any purchase or sale of such bullion does not create any tax liability. “Bullion” is defined as gold or silver of any shape or form that is uniform in content and purity and stamped or imprinted with its weight and purity. “Specie legal tender” is defined as gold or silver coin or bullion.

The Legal Tender Act would also direct the State Treasurer to approve an electronic state currency that would be a valid form of payment in the State of Kansas. The electronic currency approved by the State Treasurer would be administered by a vendor selected through the State’s competitive bid procedures. The electronic currency would be backed by specie legal tender that is deposited for the benefit of the person holding the currency in a secured vault approved by the State Treasurer. The secured vault would be subject to security, insurance, audit, and inspection requirements specified in rules and regulations adopted by the State Treasurer. The currency holder would be able to transfer such electronic currency to another person through electronic means, exchange it for other forms of legal tender, redeem it for the corresponding amount of specie legal tender, and be permitted to use the electronic currency to pay taxes and fees collected by the Kansas Department of Revenue.

Under SB 513, the State Treasurer would submit an annual report to the Legislature on the status of approved currencies and any recommendations for statutory amendments. The Attorney General is authorized to enforce the provisions of the Legal Tender Act.

SB 513 also would create the Kansas Bullion Depository Act (Depository Act). The Depository Act would authorize the State Treasurer to establish and administer bullion depositories for the secure storage of bullion. The State Treasurer may contract with a third party to administer each depository. Each depository would be required to have state-of-the-art security measures, sufficient insurance to cover the full value of all bullion stored at the depository, and biannual audits to verify the amount and value of the bullion stored.

A depository could not be terminated or transferred to a private entity without prior legislative approval. The State Treasurer would submit annual reports to the Legislature on the operations and status of each depository.

The Depository Act also allows any individual, business, or governmental entity to establish a depository account. An account holder would be able to purchase, sell, deposit, or withdraw bullion through the depository in accordance with the Depository Act and the depository agreement. State agencies, counties, and other municipalities would be able to establish an account, and the State Treasurer would be allowed to deposit state moneys into a depository in the form of bullion.

Under SB 513, any purposed confiscation, requisition, seizure, or other attempt to control the bullion deposits of an account holder by any governmental or quasi-governmental entity or any private entity operating acting at the direction of a governmental or quasi-governmental entity is declared null and void, unless such action is by an authority of the State of Kansas. Notice of any such action is to be provided by the depository to the account holder and steps taken to secure the deposit until the account holder can take possession of the bullion. The State Treasurer is directed to refer all such matters to the Attorney General for resolution.

Finally, SB 513 authorizes the Director of Investments for the State to invest in specie legal tender, but such investments cannot exceed 20% of the pooled money investment portfolio.

If enacted, SB 513 would become effective on July 1, 2024.