

## SENATE BILL No. 115

By Committee on Federal and State Affairs

1-30

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1 AN ACT concerning precious metals; relating to gold and silver bullion  
2 and specie; enacting the Kansas bullion depository act; authorizing the  
3 state treasurer to establish, administer or contract for the administration  
4 of bullion depositories; allowing state moneys to be deposited in such  
5 bullion depositories and invested in specie legal tender; amending  
6 K.S.A. 2024 Supp. 75-4209 and repealing the existing section.  
7

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (g) Investments under subsection (a) or (b) or under K.S.A. 75-4237,  
34 and amendments thereto, shall be for a period not to exceed four years,  
35 except that linked deposits authorized under the provisions of K.S.A. 2-  
36 3703 through 2-3707, and amendments thereto, shall not exceed a period  
37 of 10 years; agricultural production loan deposits authorized under the  
38 provisions of K.S.A. 75-4268 through 75-4274, and amendments thereto,  
39 shall not exceed a period of eight years and housing loan deposits  
40 authorized under K.S.A. 75-4276 through 75-4282, and amendments  
41 thereto, shall not exceed a period of five years or 20 years, as applicable  
42 pursuant to K.S.A. 75-4279, and amendments thereto.

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

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

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

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

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

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

28 ~~(m)-(1) During the fiscal year ending June 30, 2017, the director of~~  
29 ~~the budget shall estimate on or before June 27, 2017, the amount of the~~  
30 ~~unencumbered ending balance in the state general fund for fiscal year~~  
31 ~~2017. If the amount of such unencumbered ending balance in the state~~  
32 ~~general fund is less than \$50,000,000, the director of the budget shall~~  
33 ~~certify the difference between \$50,000,000, and the amount of such~~  
34 ~~unencumbered ending balance to the pooled money investment board.~~  
35 ~~Upon the liquidation of all investments and reinvestments of state moneys~~  
36 ~~pursuant to K.S.A. 75-2263(j), and amendments thereto, and upon receipt~~  
37 ~~of such certification by the director of the budget, during the fiscal year~~  
38 ~~ending June 30, 2017, the pooled money investment board shall authorize~~  
39 ~~the director of accounts and reports to transfer an amount equal to the~~  
40 ~~amount certified by the director of the budget pursuant to this subsection~~  
41 ~~from the pooled money investment portfolio to the state general fund.~~  
42 ~~Upon receipt of such authorization, the director of accounts and reports~~  
43 ~~shall make such transfer. The chairperson of the pooled money investment~~

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

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

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

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

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

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

32 ~~(B) On or before June 30, 2020, the director of accounts and reports~~  
33 ~~shall transfer an amount equal to  $\frac{1}{2}$  of the amount transferred pursuant to~~  
34 ~~subsection (m)(3), reduced by the amount transferred pursuant to~~  
35 ~~subsection (m)(4)(A) from the state general fund to the pooled money~~  
36 ~~investment portfolio.~~

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



1 *portfolio at the time such investment is made.*

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

3 Sec. 13. This act shall take effect and be in force from and after its

4 publication in the statute book.