

SESSION OF 2024

SUPPLEMENTAL NOTE ON SENATE BILL NO. 303

As Amended by Senate Committee on Federal
and State Affairs

Brief*

SB 303 would establish the Kansas Legal Tender Act to exempt recognized legal tender and specie from being characterized as personal property for taxation and regulatory purposes.

Definitions (Sections 2-3)

The bill would define the following terms:

- “Legal tender” would mean a recognized medium of exchange for the payment of debts and taxes; and
- “Specie” would mean coin having gold or silver content or refined gold or silver bullion that is coined, stamped, or imprinted with its weight and purity and valued primarily based on its metal content and not its form.

The bill would specify that specie legal tender in Kansas would consist of:

- Specie coin issued by the U.S. government at any time; or
- Any other specie that a court of competent jurisdiction, by final and unappealable order, rules

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

to be within state authority to make or designate as legal tender.

Exemptions and Enforcement

The bill would state no specie or legal tender would be characterized as personal property for taxation or regulatory purposes. The exchange of one type or form of legal tender for another type or form of legal tender and the purchase, sale, or exchange of any type or form of specie would not have any tax liability of any kind. The bill would not apply to taxable distributions from any retirement plan account that holds specie.

The bill would state that, unless expressly provided by statute or by contract, no person would have the right to compel any other person to tender specie or to accept specie as tender.

The bill would require the Attorney General to enforce the Act without any prejudice to any private right of action. The bill would require Kansas courts to require specific performance as a remedy for breach of any contract designating a type or form of specie as tender.

The bill would specify that for taxable years commencing after December 31, 2022, the amount of any net gain from the sale of specie would be subtracted from federal adjusted gross income.

The bill would also remove an outdated subsection of statute.

Background

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Thompson.

Senate Committee on Federal and State Affairs

In the Senate Committee, **proponent** testimony was provided by representatives of Kansas Campaign for Liberty and Sound Money Defense League and two private citizens, who generally stated that exempting gold and silver from taxes would be beneficial to both businesses and consumers.

Written-only proponent testimony was provided by five private citizens.

No other testimony was provided.

Senate Committee of the Whole

The bill was withdrawn from the Calendar and rereferred to the Senate Committee on Federal and State Affairs.

Senate Committee on Federal and State Affairs

Following discussion of the bill on January 17, 2024, and January 18, 2024, the Senate Committee amended the bill to state provisions of the bill would not apply to taxable distributions from any retirement plan account that holds specie.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Department of Revenue indicates the bill would decrease State General Fund (SGF) revenues beginning in FY 2024. The Department does not have data to make an estimate for the subtraction modification for any capital gain from the sale of specie that would reduce SGF revenues. However, the reduction of SGF revenues is estimated to be negligible. The Department indicates the costs to implement the bill would be negligible and could be absorbed within existing resources.

The Attorney General's Office indicates the bill gives it the authority to enforce the Act, but it is unclear what type of enforcement action would be needed. The Office is unable to provide an estimate of the potential fiscal effect of this provision.

The Office of Judicial Administration indicates the fiscal effect on expenditures would likely be negligible for the Judicial Branch.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Kansas Legal Tender Act; legal tender; gold coin; silver coin; specie; income tax; personal property