

By Senator Rodriguez

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1                                   A bill to be entitled  
2       An act relating to state legal tender and bullion  
3       depository; creating s. 17.45, F.S.; providing  
4       definitions; providing that specie legal tender and  
5       electronic currency are legal tender; providing that  
6       bullion is not personal property for taxation and  
7       regulatory purposes; providing that certain  
8       transactions of bullion do not give rise to tax  
9       liability; providing that exchange of one type or form  
10      of legal tender for another type or form of legal  
11      tender does not give rise to tax liability;  
12      prohibiting persons from compelling others to tender  
13      or accept specie as legal tender; authorizing that  
14      specie legal tender be recognized for certain payments  
15      by governmental entities; authorizing courts to  
16      require the specific type and form of specie under  
17      certain circumstances; requiring the Attorney  
18      General's office to enforce certain provisions;  
19      requiring the Department of Financial Services to  
20      establish and administer a bullion depository;  
21      authorizing the department to contract with a third  
22      party to act as the depositories' administrator;  
23      authorizing that depository accounts be established  
24      through depository agreements with a depository;  
25      providing rights of depository account holders;  
26      requiring depositories to have certain processes and  
27      systems; authorizing governmental entities to use  
28      depositories for storing bullion; authorizing the  
29      State Treasury to deposit a portion of its funds into

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30 depositories in the form of bullion; providing that  
31 such bullion is considered part of the state's  
32 official financial reserves; requiring the department  
33 to develop certain guidelines; providing recordkeeping  
34 requirements; providing requirements for security  
35 measures and insurance coverage for depositories;  
36 providing requirements for audits; providing specified  
37 administration duties for the administrator; requiring  
38 that such duties and specified services be publicly  
39 available; requiring the Chief Financial Officer to  
40 review such duties and services; prohibiting specified  
41 employees and officials from having financial  
42 interests in certain companies and entities; requiring  
43 disclosure of potential conflicts of interest;  
44 providing removal from positions, fines, and  
45 penalties; authorizing the Chief Financial Officer to  
46 enter into contracts for specified purposes;  
47 authorizing the administrator to enter into  
48 contractual agreements with private entities for  
49 certain services; requiring the department to review  
50 and approve such contractual agreements; requiring the  
51 depositories' compliance with certain laws; requiring  
52 the administrator to consult regularly with legal  
53 counsel; prohibiting depositories from being  
54 terminated or transferred to a private entity;  
55 providing an exception; providing reporting  
56 requirements; requiring the department to adopt rules  
57 and regulations; providing that certain confiscations,  
58 requisitions, seizures, and other actions relating to

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59 depository accounts by certain entities are void and  
60 of no force and effect under certain circumstances;  
61 prohibiting depositories from recognizing such  
62 entities as lawful successors of depository account  
63 holders; requiring depositories to suspend withdrawal  
64 privileges associated with such depository accounts  
65 for a specified period; authorizing voluntary  
66 transfers of account balances and of accounts among  
67 account holders; requiring the Chief Financial Officer  
68 to refer certain matters to the Attorney General;  
69 requiring the Chief Financial Officer to establish  
70 electronic currencies backed by specie legal tender  
71 and other bullion; authorizing the Chief Financial  
72 Officer to contract with a private vendor for certain  
73 services; providing requirements for establishing  
74 electronic currencies; requiring the Chief Financial  
75 Officer to hold specie legal tender and other bullion  
76 as bailment for specified purposes; authorizing  
77 persons to purchase units of electronic currencies, to  
78 deposit specie legal tender and other designated  
79 bullion, and to exchange electronic currencies for  
80 specie legal tender, legal tender other than specie  
81 legal tender, and designated bullion; requiring the  
82 Chief Financial Officer to determine values of units  
83 of electronic currency in non-specie legal tender;  
84 requiring that the exchange rates be published online;  
85 providing that specie legal tender and other  
86 designated bullion holdings are held as bailment on  
87 behalf of holders of electronic currencies and are not

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88 available for legislative appropriation; providing  
89 rulemaking authority; authorizing the Chief Financial  
90 Officer to enter into contracts for specified  
91 purposes; requiring the Chief Financial Officer to  
92 administer this act pursuant to specified provisions;  
93 providing an effective date.

94

95 Be It Enacted by the Legislature of the State of Florida:

96

97 Section 1. Section 17.45, Florida Statutes, is created to  
98 read:

99 17.45 Gold and silver as legal tender; state bullion  
100 depositories; gold and silver electronic currency.—

101 (1) DEFINITIONS.—As used in this section, the term:

102 (a) "Administrator" means the individual or entity  
103 appointed by the department to oversee the operation and  
104 management of the depositories.

105 (b) "Bullion" means refined precious metal in any shape or  
106 form with uniform content and purity, including, but not limited  
107 to, coins, rounds, bars, ingots, and any other products, which  
108 is:

109 1. Stamped or imprinted with the weight and purity of the  
110 precious metal that it contains; and

111 2. Valued primarily based on its metal content and not on  
112 its form and function.

113 (c) "Depository" means a bullion depository established in  
114 this section.

115 (d) "Depository account" means an account established with  
116 a depository to facilitate the storage, transfer, and exchange

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117 of bullion.

118 (e) "Electronic currency" means a representation of actual  
119 gold and silver, specie, and bullion held in a depository  
120 account, which may be transferred by electronic instruction.  
121 Such representation must reflect the exact units of physical  
122 gold and silver, specie, or bullion in the depository account in  
123 its fractional troy ounce measurement as provided in this  
124 section.

125 (f) "Legal tender" means a recognized medium of exchange  
126 that is authorized by the United States Congress or by any state  
127 pursuant to s. 8 or s. 10, Art. I of the United States  
128 Constitution, respectively, for the payment of debts, public  
129 charges, taxes, or dues.

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

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

137 (i) "Specie legal tender" means:

138 1. Specie coin issued by the Federal Government at any  
139 time; and

140 2. Any other specie designated by the Chief Financial  
141 Officer as legal tender pursuant to the monetary authority not  
142 prohibited in s. 10, Art. I of the United States Constitution.

143 (2) LEGAL TENDER.—

144 (a) The following are considered legal tender:

145 1. Specie legal tender; and

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146 2. Electronic currency.

147 (b) Bullion may not be characterized as personal property  
148 for taxation or regulatory purposes.

149 (c) The purchase or sale of any type or form of bullion  
150 does not give rise to any tax liability.

151 (d) The exchange of one type or form of legal tender for  
152 another type or form of legal tender does not give rise to any  
153 tax liability.

154 (e) Unless specifically provided by the State Constitution  
155 or general law or by contract, a person may not compel another  
156 person to tender specie or to accept specie as legal tender.

157 (f) Specie legal tender may be recognized to pay private  
158 debts, taxes, and fees levied by the state or local government  
159 or any subdivision thereof.

160 (g) If a valid and enforceable contract expressly  
161 designates a type or form of specie as tender, the court that is  
162 asked to adjudicate the breach of the contract must require, as  
163 a remedy for the breach, the specific performance of tendering  
164 the type or form of specie specified in the contract.

165 (h) The Attorney General's office shall enforce this  
166 subsection without prejudice to a private right of action.

167 (3) BULLION DEPOSITORIES.—

168 (a) State bullion depository establishment and  
169 administration.—The department may:

170 1. Establish and administer bullion depositories to provide  
171 a secure location for the storage of bullion; or

172 2. Contract with a third party to act as the administrator  
173 to manage the day-to-day operations of the depositories and  
174 implement the depositories' security, storage, and transactional

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175 and administrative procedures in accordance with this subsection  
176 and any rule adopted thereunder. As used in this subsection, the  
177 term "security" means physical, online, and logical security  
178 standards that meet generally accepted standards within the  
179 information assurance industry.

180 (b) Depository accounts; state use of depositories.—

181 1. A person, including, but not limited to, an individual,  
182 a corporation, a partnership, a company, an association, a  
183 trust, an estate, and a governmental entity, may establish a  
184 depository account by entering into a depository agreement with  
185 a depository.

186 2. A depository account holder may purchase, sell, deposit,  
187 or withdraw bullion through the holder's account in accordance  
188 with this section and any rule adopted thereunder. A depository  
189 must have processes and systems to facilitate timely bullion  
190 purchases, sales, deposits, and withdrawals, which may include,  
191 but are not limited to:

192 a. Physical deposits and withdrawals to and from the  
193 depository's physical location, or a partner organization such  
194 as a major mint or refiner capable of providing bullion that  
195 meets standards established by the department; and

196 b. Electronic systems that meet current industry standards  
197 for the purchase and sale of bullion for depository account  
198 holders that cannot or choose not to travel to the physical  
199 location.

200 3. State agencies, counties, municipalities, and other  
201 governmental entities may use a depository for storing bullion.  
202 The State Treasury may deposit a portion of its funds into a  
203 depository in the form of bullion, and such bullion is

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204 considered part of the state's official financial reserves. The  
205 department shall develop guidelines for the state's use of  
206 depositories.

207 4. The administrator shall maintain a record of all  
208 depository accounts and all transactions, deposits, and  
209 withdrawals associated with each account. Such records must be  
210 provided to the department within 5 business days after the  
211 department's request. All records shall be kept and maintained,  
212 at a minimum, on an approved state computer system for a period  
213 of at least 7 years and 1 day.

214 (c) Security measures and insurance.-

215 1. The administrator shall ensure that a depository has  
216 state-of-the-art security measures to prevent theft, fraud, or  
217 other unauthorized access or removal of bullion.

218 2. A depository shall maintain insurance coverage  
219 sufficient to cover the full value of all bullion stored at the  
220 depository. Such insurance shall be provided by an insurer that  
221 is rated "A" or higher by A.M. Best Company or an equivalent  
222 rating by another national rating service acceptable to the  
223 office.

224 3. An independent third party shall conduct audits at least  
225 twice a year to verify the amount and value of bullion stored in  
226 a depository and to inspect the security measures and protocols  
227 in place. The third party must be an established provider with a  
228 good history of providing such auditing service. Documentation  
229 of audit results must be made available within a reasonable  
230 timeframe to the public upon request. Documentation must  
231 include, at a minimum, summary totals of precious metal amounts  
232 assessed, as well as documentation of any discrepancies found



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233 during the audit.

234 (d) Transactions and services.—

235 1. The administrator shall administer the bullion storage,  
236 withdrawal, and transfer within a depository pursuant to the  
237 safekeeping services provisions under s. 17.59 and shall make  
238 such administration and services provisions publicly available.

239 2. The Chief Financial Officer shall periodically review  
240 the administration and the safekeeping services provisions under  
241 s. 17.59, as described in subparagraph 1., to ensure that such  
242 administration and services provisions are reasonable and in  
243 line with market rates.

244 (e) Conflicts of interest.—

245 1. An employee or official associated with the oversight or  
246 operation of a depository:

247 a. May not have any financial interests in companies or  
248 entities that produce, sell, or manage bullion.

249 b. Must disclose any potential conflict of interest to the  
250 department immediately upon discovery.

251 2. A violation of this paragraph may result in the  
252 employee's or official's removal from his or her position,  
253 finer, or other legal penalties as determined by the department.

254 (f) Contractual agreements.—The Chief Financial Officer has  
255 all authority necessary to enter into contractual agreements  
256 with third parties to administer this section and fulfill the  
257 purposes of this section. The administrator may enter into  
258 contractual agreements with private entities for the provision  
259 of services for bullion storage, transportation, or security.  
260 All contractual agreements must be reviewed and approved by the  
261 department to ensure that the agreements align with the state's

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262 interests and security requirements.

263 (g) Legal and regulatory compliance.—A depository must  
264 comply with federal and state laws pertaining to bullion  
265 storage, management, and transactions. The administrator shall  
266 consult regularly with legal counsel to ensure that each  
267 depository remains compliant with evolving laws and regulations.

268 (h) Termination or transfer of a depository.—A depository  
269 may not be terminated or transferred to a private entity unless  
270 such termination or transfer is approved by the Legislature. A  
271 depository termination or transfer must ensure the security of  
272 the bullion, the rights of account holders, and the financial  
273 interests of the state.

274 (i) Reporting and oversight.—

275 1. The administrator shall provide a quarterly report to  
276 the department detailing the operations, transactions, and  
277 financial status of each depository.

278 2. The department shall provide an annual report to the  
279 Legislature regarding the operations and financial status of  
280 each depository.

281 3. The Legislature may request additional reports or  
282 conduct investigations into the operations of a depository as it  
283 deems necessary.

284 (j) Rules and regulations.—The department shall adopt rules  
285 and regulations necessary for the establishment, operation,  
286 security, and administration of a depository and shall make  
287 these rules and regulations publicly available. Before final  
288 adoption of the rules and regulations, the department must  
289 undergo a public comment period.

290 (k) Confiscations, requisitions, seizures, and other

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291 actions void.—

292 1. A purported confiscation, requisition, seizure, or other  
293 attempt to control the ownership, disposition, or proceeds of a  
294 withdrawal, transfer, liquidation, or settlement of a depository  
295 account or an electronic currency account, including the  
296 precious metals represented by the balance of a depository  
297 account or an electronic currency account, if effected by a  
298 governmental or quasi-governmental authority other than an  
299 authority of this state or by a financial institution or other  
300 person acting on behalf of or pursuant to a directive or  
301 authorization issued by a governmental or quasi-governmental  
302 authority other than an authority of this state, in the course  
303 of a generalized declaration of illegality or emergency relating  
304 to the ownership, possession, or disposition of one or more  
305 precious metals, contracts, or other rights to the precious  
306 metals, contracts, or derivatives of the ownership, possession,  
307 disposition, contracts, or other rights, is void ab initio and  
308 of no force or effect.

309 2. A depository in the case of receiving notice of a  
310 purported confiscation, requisition, seizure, or other attempt  
311 to control the ownership, disposition, or proceeds of a  
312 withdrawal, transfer, liquidation, or settlement of a depository  
313 account or an electronic currency account, including the  
314 precious metals represented by the balance of a depository  
315 account or an electronic currency account, if effected by a  
316 governmental or quasi-governmental authority other than an  
317 authority of this state or by a financial institution or other  
318 person acting on behalf of or pursuant to a directive or  
319 authorization issued by a governmental or quasi-governmental

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320 authority other than an authority of this state, in the course  
321 of a generalized declaration of illegality or emergency relating  
322 to the ownership, possession, or disposition of one or more  
323 precious metals, contracts, or other rights to the precious  
324 metals, contracts, or derivatives of the ownership, possession,  
325 disposition, contracts, or other rights, may not recognize the  
326 governmental or quasi-governmental authority, financial  
327 institution, or other person acting as the lawful successor of  
328 the registered holder of the depository account or the  
329 electronic currency account in question.

330 3. Upon receipt of notice of any transaction described in  
331 subparagraph 1., with respect to all or any portion of the  
332 balance of a depository account or an electronic currency  
333 account, a depository shall suspend withdrawal privileges  
334 associated with the balances of the depository account or  
335 electronic currency account until suitable substitute  
336 arrangements may be effected in accordance with rules of the  
337 Chief Financial Officer to enable the registered account holder  
338 to take delivery of the precious metals represented by the  
339 account balances in question. A voluntary transfer of a  
340 depository account or an electronic currency account balance or  
341 of a depository account or an electronic currency account among  
342 depository account or electronic currency account holders may  
343 continue to take place unaffected by the suspension, and the  
344 depository shall recognize such voluntary transfer to the full  
345 extent authorized by this section and rules adopted under this  
346 section.

347 4. The Chief Financial Officer shall refer any matter  
348 relating to an action described in subparagraph 1. to the

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349 Attorney General for resolution.

350 (4) TRANSACTIONAL GOLD AND SILVER ELECTRONIC CURRENCY.—

351 (a) Establishment and administration of gold and silver  
352 electronic currency.—

353 1. As authorized under s. 10, Art. I of the United States  
354 Constitution, the Chief Financial Officer shall establish  
355 electronic currencies backed by specie legal tender, or other  
356 bullion designated by the Chief Financial Officer, so that each  
357 unit of the electronic currency issued represents a fraction of  
358 a troy ounce of specie legal tender or such other form of  
359 bullion, which shall be held as bailment as provided in this  
360 subsection.

361 2. The Chief Financial Officer may contract with a private  
362 vendor to establish the electronic currencies or to perform  
363 other duties necessary to administer this subsection.

364 3. In establishing electronic currencies, the Chief  
365 Financial Officer shall establish a means to ensure that a  
366 person who holds an electronic currency may readily transfer or  
367 assign the electronic currency to any other person by electronic  
368 means.

369 (b) Gold and silver held as bailment.—

370 1. The Chief Financial Officer shall, on behalf of the  
371 electronic currency holders, hold as bailment the specie legal  
372 tender or other designated bullion acquired to back each  
373 electronic currency. The Chief Financial Officer shall maintain  
374 enough specie legal tender or other designated bullion to  
375 provide for the redemption in specie legal tender or other  
376 designated bullion of all units of the electronic currencies  
377 that have been issued.

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378       2. The Chief Financial Officer may establish an account in  
379 a depository to hold specie legal tender or other designated  
380 bullion purchased to back each electronic currency and may hold  
381 the specie legal tender or other designated bullion otherwise as  
382 convenient for the administration of this subsection.

383       (c) Purchase and deposit; issuance.—A person may:

384       1. Purchase any number of units of an electronic currency  
385 from a depository.

386       2. Deposit specie legal tender or other designated bullion  
387 with the Chief Financial Officer, the administrator, or a  
388 depository, in exchange for units of an electronic currency.

389       3. Present to the Chief Financial Officer or the  
390 administrator any number of units of an electronic currency to  
391 exchange for legal tender other than that backing the electronic  
392 currency.

393       4. Surrender to the Chief Financial Officer or the  
394 administrator, for redemption, any number of units of an  
395 electronic currency in exchange for an equal amount of specie  
396 legal tender or other designated bullion backing such  
397 surrendered electronic currency, with any fractional remainders  
398 paid in other legal tender as necessary to facilitate the  
399 transaction.

400       (d) Value of electronic currency.—

401       1. At the time of each transaction involving the issuance  
402 or redemption of the electronic currency, the Chief Financial  
403 Officer or administrator shall determine the value of a unit of  
404 the electronic currency in non-specie legal tender based on  
405 market price.

406       2. The Chief Financial Officer or administrator shall

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407 publish online exchange rates in non-specie legal tender for any  
408 specie legal tender or other bullion products that are accepted  
409 in a depository.

410 (e) Bailment holding.—All specie legal tender and other  
411 designated bullion holdings are:

412 1. Held as a bailment by the Chief Financial Officer as  
413 bailee on behalf of persons who hold the electronic currencies;  
414 and

415 2. Not available for legislative appropriation.

416 (f) Rules; contracts.—The Chief Financial Officer may:

417 1. Adopt rules to implement this subsection, including  
418 rules to ensure the security of the electronic currency and to  
419 prevent fraud; and

420 2. Enter into contracts to administer this subsection and  
421 fulfill the purposes of this subsection.

422 (5) SAFEKEEPING SERVICES.—The Chief Financial Officer shall  
423 administer this section pursuant to s. 17.59.

424 Section 2. This act shall take effect July 1, 2024.