

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 132

INTRODUCER: Senator Rodriguez and others

SUBJECT: Legal Tender

DATE: March 28, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 132 recognizes gold and silver coins and bullion (“specie”) as legal tender in Florida. The bill exempts specie from personal property taxation and state tax liability while allowing, but not requiring, government entities to accept it for payments of private debts, taxes, and fees. Additionally, the bill provides that a person may not compel another person to tender specie as legal tender except as specifically provided in certain laws or by contract. Finally, the bill requires the Chief Financial Officer to adopt rules regarding the acceptance of specie legal tender as payment for any public debt, tax, fee, or obligation owed.

The OFR reports there is no fiscal impact on the state government.

The bill is effective July 1, 2025.

II. Present Situation:

Legal Tender and Specie under Federal and State Law

Article I, Section 8, Clause 5 of the U.S. Constitution grants Congress the exclusive power to coin money and regulate its value.¹ Under 31 U.S.C. § 5103, only United States coins and currency (including Federal Reserve notes) are recognized as legal tender for the payment of debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts under federal law.² Federal law also provides:

“Whoever, except as authorized by law, makes or utters or passes, or attempts to utter or pass, any coins of gold or silver or other metal, or alloys of metals, intended for use as current money, whether in the resemblance of coins of the United States or of foreign

¹ U.S. Const. art. 1. s. 8. Cl. 5.

² 31 U.S.C. s. 5103

countries, or of original design, shall be fined under [Title 18] or imprisoned not more than five years, or both.”³

While prohibited from coining money, under Article I, Section 10, Clause 1 of the U.S. Constitution, states are expressly authorized to "make gold and silver coin a tender in payment of debts."⁴ This provision authorizes states to recognize gold and silver coin as legal tender for the payment of debts but prohibits states from creating or issuing their own currencies or recognizing other forms of money as tender.⁵ The U.S. Supreme Court held that debts are an obligation to pay money under contract, including judgments and recognizances, but does not include taxes which are "...impost levied by authority of government on its citizens...and it is not founded on contract or agreement."⁶ However, the Court also held that a state legislature has the authority to "...require the collection of taxes in kind, that is to say, by the delivery to the proper officers of a certain proportion of products, or in gold and silver bullion, or in gold and silver coin..."⁷

Tax Treatment of Specie and Bullion

Federal Taxation

At the federal level, gold and silver coins and bullion are classified as "collectibles" under 26 U.S.C. § 408(m), and gains from their sale are subject to a maximum long-term capital gains tax rate of 28 percent.⁸ The Internal Revenue Code defines "collectible" to include "any metal or gem" and "any coin" not specifically exempted.⁹ U.S.-minted gold and silver coins are explicitly exempt from being classified as "collectibles."¹⁰

Florida Taxation

Florida provides a limited sales tax exemption for sales of U.S. coins and currency and for foreign currency transactions exceeding \$500.¹¹ Additionally, Florida provides a limited sales tax exemption on the sale of gold, silver, or platinum bullion, or any combination thereof, in a single transaction, is exempt when the total sales price of such bullion exceeds \$500.¹² Depending on the form of the bullion and the nature of the transaction, sales of bullion may be subject to state sales tax as tangible personal property.¹³ Florida does not impose an individual income tax, including capital gains tax.¹⁴ In addition, Florida law does not explicitly address whether precious metals should be classified as tangible personal property subject to ad valorem taxation,

³ 18 U.S.C. s. 486.

⁴ U.S. Const. art. 1. s. 10. Cl. 1.

⁵ *Id.*

⁶ *Lane County v. Oregon*, 74 U.S. 71, 72 (1868); *Hager v. Reclamation Dist. No. 108*, 111 U.S. 701, 706-707 (1884).

⁷ *Lane County v. Oregon*, 74 U.S. at 77.

⁸ Internal Revenue Service, *Topic no. 49, Capital gains and losses*, January 2, 2025, available at [Topic no. 409, Capital gains and losses | Internal Revenue Service](#) (last visited March 24, 2025).

⁹ 26 U.S.C. § 408(m)(2)(A)–(D).

¹⁰ 26 U.S.C. § 408(m)(3)(A).

¹¹ Section 212.05(1)(j), F.S.

¹² Section 212.08(7)(ww), F.S.

¹³ Section 212.05(1)(a)1.a., F.S.

¹⁴ Art. VII, s. 5(a), Fla. Const.; Florida Department of Revenue, *Does Florida Have a Capital Gains Tax?*, available at <https://floridarevenue.com/faq/Pages/FAQDetails.aspx?FAQID=1307&IsDlg=1> (last visited March 24, 2025).

although the statutory definition of tangible personal property includes "all goods, chattels, and other articles of value... capable of manual possession."¹⁵

Other States' Treatment of Specie and Bullion

Several states have adopted laws to recognize gold and silver as legal tender or to remove various tax barriers to facilitate their use in commerce. These laws vary in scope and effect, ranging from simple tax exemptions to the establishment of state-run bullion depositories.

- Arkansas law defines specie, in part, as “coin having gold or silver content” and provides that specie and legal tender consists of specie coin issued by the United States Government or other specie that an Arkansas court rules to be within the state’s authority to make legal tender but does not explicitly provide that gold and silver coin are legal tender.¹⁶
- Arizona has removed state capital gains taxes on sales of precious metals. Like Wyoming, Arizona's approach focuses on tax treatment rather than establishing state-operated depositories or payment systems.¹⁷ For purposes of reducing gross income with any net loss from the exchange of legal tender, Arizona has defined legal tender to include specie which means coins having precious metal content.¹⁸
- Idaho recently passed legislation that provides gold and silver coin and specie minted domestically are legal tender.¹⁹
- Louisiana recently declared gold or silver coin, specie, or bullion issued by any state or the United States government as legal tender.²⁰
- Oklahoma law provides that gold and silver coin issued by the United State government are legal tender.²¹
- Texas has established a state-operated bullion depository, known as the Texas Bullion Depository, to securely store precious metals for individuals, businesses, and governmental entities. The depository provides secure storage and the ability for account holders to deposit and withdraw physical bullion. Although Texas law enables secure in-state storage of precious metals, it does not authorize gold and silver as official legal tender for payment of state taxes or other obligations.²²
- Utah was the first state to recognize U.S.-minted gold and silver coins as legal tender through its Legal Tender Act of 2011. Utah law also provides a tax exemption for capital gains derived from the sale or exchange of gold and silver coins that are recognized as legal tender. In addition, Utah permits private firms to operate accounts backed by physical precious

¹⁵ Section 192.001(11)(d), F.S.

¹⁶ AR Code s. 4-56-106.

¹⁷ Ariz. Rev. Stat. § 43-1021. *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 102. February 28, 2025.

¹⁸ AZ Rev. Stat. s. 43.1021.

¹⁹ Idaho HB 177 (2025).

²⁰ LA Rev. Stat. s. 6:341.

²¹ 62 OK Stat. s. 4500.

²² Tex. Gov’t Code § 2116; S.B. 483 (2015). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 116. February 28, 2025.

metals, which allows individuals to conduct transactions denominated in gold and silver.²³ Utah recently legislation that authorizes the state treasurer to issue a competitive procurement for a precious metals-backed electronic payment platform that would allow state vendors to elect to be paid in gold and silver.²⁴

- Wyoming enacted legislation in 2018 declaring gold and silver legal tender and exempting the sale of these metals from state sales and use taxes. Wyoming law also prohibits the treatment of specie as taxable tangible personal property, effectively removing several barriers to the private holding and use of gold and silver for commerce.²⁵

Other states, such as Kansas and Indiana, have adopted various forms of tax exemptions related to the sale or exchange of gold and silver bullion, though these laws do not necessarily recognize precious metals as legal tender or create infrastructure to support their use as a medium of exchange.²⁶

While these states have taken steps to encourage the use of gold and silver by removing tax barriers and recognizing their status as lawful money in specific contexts, no state currently operates a fully integrated, government-supported electronic payment system backed by physical precious metals that is recognized for payment of all state taxes, fees, or other obligations. Most existing laws focus on facilitating private holding and exchange of gold and silver, and on removing disincentives such as sales and capital gains taxes, rather than creating comprehensive alternative currency systems.²⁷

Chief Financial Officer

Florida law provides that the Chief Financial Officer (CFO) must serve as the state's chief fiscal officer and, amongst other things, is responsible for keeping all state funds.²⁸ The CFO is tasked with examining, auditing, adjusting, and settling all accounts of any person who may receive moneys of, or owes money to, the state.²⁹ Florida Statutes grant the CFO several powers to carry out these duties, such as the discretion on how to invest state funds within certain limitations,³⁰ authority to determine the frequency of certain state employee salary payments,³¹ and requirement to report disbursements made.³²

²³ Utah Code §§ 59-1-1501 et seq.; H.B. 317 (2011). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 122. February 28, 2025.

²⁴ Utah HB 306 (2025).

²⁵ Wyo. Stat. §§ 34-29-101 to 34-29-103; SF111 (2018). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 128. February 28, 2025.

²⁶ *Id.*

²⁷ *Id.* at 14, 20, 22-23.

²⁸ Fla. Const. art. IV s. 4(c); Section 17.001, F.S.

²⁹ Section 17.04, F.S.

³⁰ *See* s. 17.57, F.S.; s. 17.61, F.S.

³¹ Section 17.28, F.S.

³² Section 17.11, F.S.

III. Effect of Proposed Changes:

Section 1 of the bill declares specie and electronic currency legal tender in this state. The bill provides specie or specie legal tender may not be characterized as personal property for taxation or regulatory purposes. The bill also provides tax liability does not arise from:

- The purchase or sale of any type or form of specie; and
- The exchange of one type or form of legal tender for another type or form of legal tender.

The bill provides that a person may not compel another person to tender or accept specie as legal tender unless provided by the State Constitution, general law or contract. The bill authorizes, but does not require, specie legal tender to be recognized to pay private debts, taxes, and fees levied by the state or local government or any subdivision. Finally, the bill requires the Chief Financial Officer to adopt rules regarding the acceptance of specie legal tender as payment for any public debt, tax, fee, or obligation owed.

The bill defines the following terms:

- “Bullion” means refined precious metal in any shape or form with uniform content and purity, including, but not limited to, coins, rounds, bars, ingots, and any other products, which is:
 - Stamped or imprinted with the weight and purity of the precious metal that it contains; and
 - Valued primarily based on its metal content and not on its form and function.
- “Electronic currency” means a representation of physical gold, silver, specie, or bullion which may be transferred through a digital transaction by the owner of such currency and which is fully redeemable as physical gold, silver, specie, or bullion. Such representation must reflect the exact units of physical gold, silver, specie, or bullion in its fractional troy ounce measurement or grams.
- “Legal tender” means a recognized medium of exchange authorized by the United States Congress or by any state pursuant to s. 8 or s. 10, Art. I of the United States Constitution, respectively, for the payment of debts, public charges, taxes, or dues.
- “Precious metal” means gold or silver.
- “Specie” means coin having gold or silver content and bullion.
- “Specie legal tender” means:
 - Specie coin issued by the Federal Government at any time;
 - Specie coin issued by any foreign government at any time; or
 - Any other specie recognized by this state or any other state pursuant to s. 10, Art. I of the United States Constitution.

Section 2 provides the bill is effective July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The OFR reports there is no fiscal impact on the state government.³³

VI. Technical Deficiencies:

SB 132 provides that the purchase or sale of any type or form of specie does not give rise to any tax liability (lines 60-61); however, the state does not have authority to legislative federal tax liability.

Florida law provides that coin or currency that is legal tender that is exchanged for a rate more than its face value but under \$500 is subject to sales tax,³⁴ which is inconsistent with the provision of SB 132 that provides a full tax exemption for any exchange of one type or form of legal tender for another type.

VII. Related Issues:

None.

³³ The OFR, *2025 Agency Legislative Bill Analysis for SB 132*, March 14, 2025, 5-6 (on file with Senate Committee on Banking and Insurance).

³⁴ Section 212.05(1)(j), F.S.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 215.986

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
