

# **DIGITAL GOLD LEGISLATION AND MODEL LEGISLATION**

## **JANUARY 2026**

### **"What Are We Really Legalizing?" A Legislator's Guide to Digital Gold Systems**

### **Summary of Pending and Enacted State Statutes Authorizing Digital Gold/Silver Electronic Payment Systems and Related Bills**

#### **A. Arkansas Digital Gold/Silver Legislation (HB 1918/Act 810 of 2025 signed into law 4/17/25, effective 8/5/25)**

1. Generally amends Arkansas Code § 4-56-106 “Specie or Legal Tender,” authorizes use of a bullion depository, allows for a precious metals-backed electronic currency system and leaves the details of the system to the discretion of the chief financial officer of the state
2. Defines “bullion depository” to include an entity in the US providing vault facilities for precious metals that is accredited by LBMA and “has a contractual relationship to provide vault services to hold and receive deposits of specie or legal tender for an authorized precious metals-backed electronic payment system vendor
3. Defines “precious metals backed electronic payment system” as an electronic payment system that:
  - a. Uses bullion in a bullion depository as backing for electronic transactions
  - b. Allows for the redemption of bullion by electronic payment system participants
  - c. Enables the account holder to make payments to a participating vendor
  - d. Is an entity authorized and approved by the chief fiscal officer of the state to provide an account that holds bullion and allows account holders to buy, sell, save, or spend bullion as a form of currency
4. Changes the definition of “specie” to delete the requirement that it has value based primarily on metal content and not its form
5. Defines “transactional gold and silver” as a representation of physical gold, silver, specie, or bullion (reflecting the exact units of physical gold, silver, specie, or bullion in its fractional troy ounce measurement or grams) that may be transferred through electronic or written instruction through a transaction by the owner of the specie and is fully redeemable as physical gold, silver, specie or bullion
6. Changes the statute that said only “specie may be recognized to pay debts” to “specie or legal tender may be recognized to pay private debts, taxes, and fees levied by the state or local government if the state or local government agrees to payment with physical gold or silver.” So gold and silver is legal tender in the state only for government obligations that the governmental unit agrees may be paid with gold or silver. Note that the existing statute defines legal tender to mean a recognized medium of exchange for the payment of debts and taxes.

7. The chief fiscal officer is authorized to promulgate rules to implement and administer these provisions, provided that the rules ***shall*** include:

- (i) “The ability of a vendor to elect payment for goods or services from a precious metals-backed electronic payment system participant to be in either bullion or dollars at no additional cost to the vendor” and “The conversion of bullion into the dollar equivalent shall be based on the terms agreed upon by the parties and provide for the acceptance of specie, legal tender, or dollars as payment for any public debt, tax, fee, or obligation owed at the option of the vendor” [???]
- (ii) The security of the transactional gold and silver
- (iii) Costs associated with the transactional gold/silver account are paid by the system participant, the provider of the precious metals-backed electronic payment system, and/or the bullion depository, as agreed to between them under a contract
- (iv) “Determining the sufficiency of the specie held by bullion depositories authorized in the state of their physical location” [??]
- (v) Authorizing and approving precious metals-backed electronic system vendors to do business within the state
- (vi) Fraud prevention

**B. Texas Digital Gold/Silver Legislation -- HB 1056 signed into law 6/22/25, effective as to Code §2116.101<sup>1</sup> on 9/1/26 and otherwise effective 5/1/27, 2027)**

1. Adds subchapter D to §2116.101 “Gold and Silver Specie and Currency”

2. To be legal tender in the state, gold/silver specie:

- (i) must be imprinted, stamped or marked with weight and purity and may be imprinted, stamped or otherwise marked with name or symbol identifying refiner or mint
- (ii) otherwise must not be imprinted stamped or marked with any name, symbol or other design including any suggestion that the specie has been minted or issued by a governments

3. This section does not:

- (i) restrict electronic transfer of gold/silver specie or currency as legal tender for payment of debt
- (ii) apply to US coins or currency recognized under federal law
- (iii) prohibit or limit legal tender, acceptance or use of Federal Reserve notes I payment of debt

4. A person may not be required to offer or accept gold/silver specie or currency as legal tender for payment of debt, for deposit or for any other purpose

5. The comptroller may establish or authorize electronic payment system(s) that enable a depositor or vendor to make/receive payments using currency backed by gold/silver bullion held in the depository

6. The comptroller may contract with vendor(s) to implement this chapter. Consistent with state/federal law, comptroller shall give preference to such vendor with principal place of business in the state.

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<sup>1</sup> 2116.101. **LEGAL TENDER.** (a) To the extent authorized by Section 10, Article I, United States Constitution, gold and silver specie that meet the requirements of this section are legal tender in this state.

7. The comptroller ***shall*** adopt rules as necessary or convenient to implement/administer this subchapter, including rules to:

- (i) provide for security of transactions in gold/silver specie and currency and related information
- (ii) determine value of gold/silver currency at time of transaction or in a commercially reasonable manner
- (iii) establish a reasonable and necessary fee to implement this subchapter
- (iv) authorize and approve vendors, including financial institutions, to provide electronic system described herein
- (v) adopt policies/procedures to prevent fraud and transactions involving a foreign adversary or person associated with foreign adversary (15 CFR §791.4)

### **C. Utah [HB 306](#)**

The governor did not sign this legislation passed by the House and Senate, which would have authorized the state treasurer to procure a precious-metals-backed electronic payment system. The governor vetoed it (among [other bills](#)) and it therefore it did not go into effect. Another bill has been entered in January 2026 for the current session (HB 195)

## **D. Other Recently-Introduced State Bills Establishing Gold/Silver-Backed Digital Electronic Payment Systems and Related Bills**

### **Ohio**

[HB 206](#) – Rep. Jennifer Gross and Riordan McClain - establishes a gold/silver-backed transactional electronic payment system (note: Rep. Gross reports that she expects the introduced version will be replaced by one based upon the ALEC model)

### **West Virginia**

[HB 4673](#) - Del. Chris Anders – Gold and silver as legal tender and establishing a digital electronic gold/silver payment system and a state bullion depository

[SB 413](#) and [SB 172](#) - Sen. Rucker

### **Idaho**

Idaho reportedly plans to introduce a bill shortly according to Sound Money Defense League.

### **Utah**

[HB 195](#) - Rep. Ken Ivory – establishes a precious metals-backed electronic payment system

### **Tennessee**

[SB 1813](#) - Rep. Paul Bailey – recognizes gold/silver as legal tender and authorizes the creation of a secure bullion depository and an electronic payment system to support the use of gold and silver; exempts gold and silver transactions from state and local taxation

### **Oklahoma**

[SB 2058](#) - Sen. Dusty Deevers – recognizes gold/silver as legal tender; establishes gold depository; exempts sale or exchange of species from taxable income

### **New Jersey**

[SB 846](#) - Sen. Robert Singer -- establishes gold/silver transactional currency system; designates Commissioner of Banking and Insurance as administrator; provides legal tender status; authorizes fees

### **Mississippi**

[HB 1531](#) - Rep. Lester Carpenter

[HB 1530](#) - Rep. Lester Carpenter -- establishes state bullion depository as division of Office of State Treasurer

[HB 440](#) - Rep. Dan Eubanks -- recognizes gold and silver as legal tender for private transactions and, when accepted, for paying state and local taxes or fees; to authorize the creation of a secure bullion depository and a specie-backed electronic payment system; to exempt gold and silver transactions from state sales, use, and income taxes

### **Kentucky**

[SB 99](#) - Sen. Steve Rawlings – recognizes gold and silver specie as legal tender that may be used to pay obligations to the state if governing authority agrees to accept; state treasurer authorized to establish a state bullion depository and one or more electronic payment systems under the new chapter to have a relationship with the depository; statute does not authorize a central bank digital currency or any mechanism for surveillance, social credit scoring, or behavioral conditioning, or any other form of social or economic control, by the Commonwealth of Kentucky or a governing authority

### **Florida**

[HB 1311](#) - Rep. Doug Bankson -- gold and silver coin as legal tender ([text](#) as introduced)

[SB 1588](#) - Sen. Joe Gruters – gold and silver coin as legal tender ([text](#) as introduced)

## **F. Issues under Model, Texas and Arkansas Legislation**

- Legal Issues
  - Questionable Constitutionality:
    - Article 1 §10 of the US Constitution prohibits states from “coining money.” The argument that the transactional currency is a “representation” of bullion or specie (as Ohio’s bill states) does not remove it from being a separate currency from specie and bullion.
    - Article 2 §10 prohibits states from making any thing other than silver or gold coin a tender in payment of debts. The state does not have the power to make electronic currency “representing” specie and bullion legal tender. The state may be authorized (barring some state constitutional or other provision expressly prohibiting this) accept the transactional currency, specie or bullion in payment of debts to the state (as Missouri and codes provide in their legal tender statutes). One proposed gold/silver electronic

payment system statute would authorize state governmental units to accept digital gold/silver in payment of governmental taxes, fees and other obligations but would leave such an option open to the discretion of each separate governmental unit.

- There is no requirement for an opinion from the Attorney General or other counsel that this system is constitutional, leaving it open to litigation and accompanying uncertainty as to legality.
- Status of Issuer: There is no provision stating that the state is the issuer of the electronic “currency,” although that appears to be the case in the Ohio bill that was introduced in the Ohio House. How does the digital precious metals currency created in these statutes fit into the CLARITY Act (House name)/Responsible Financial Innovation Act (Senate name) and payment stable coin system (under the GENIUS Act)?
- Even a provision like that in the ALEC model act that a depository agent or contracted entity must operate in the interests of the state (a provision not expressly included in the Arkansas and Texas acts) may be insufficient as a legal matter to establish a fiduciary obligation to the depositors or, conceivably, privity of contract between the depositors and vendors on the one hand and the contractors on the other. In addition, the contractors to the state may claim exemption from state public records laws (and there is precedent for such a position, at least at the federal level when raised in FOIA requests).
- Under current law, gold and silver are subject to capital gains taxation when exchanged for Federal Reserve notes (dollars) or when used in barter transactions. Even though the statutes in some states exempt precious metals from state capital gains taxes, states have no power to change the fact that precious metals are subject to federal capital gain taxes.

- Problems with Programmability
  - None of the bills/laws so far prohibit the electronic currency created by the statute from being programmable and therefore being adapted to a social credit system. Programmability feature embedded in the currency itself (as opposed to outside the currency as would be the case, e.g., in a food stamp card that is good only for the purchase of certain goods) is the concern with any digital currency.
  - Social credit system – See this [video clip](#) of Augustin Carstens, General Manager of the Bank for International Settlements, describing CBDCs and this [video](#) illustrating what might happen when a UK citizen tries to use a Britcard.
  - The CFO has no power to ensure that transactional currency is accepted as legal tender or otherwise for the payment of debts by the holders to private parties -- only with respect to debts to the state and state instrumentalities, and in that case further legislation and/or regulations may be required to implement such a system (see note about existing provisions in Missouri and Florida that permit this). The hope expressed in some accompanying legislative history in Texas that the creation of a precious-metals electronic “currency” would be open to court interpretation of federal tax laws to exempt such currency from federal capital gain taxes may be unfounded.

- Loss of Control by State
  - With no existing state bullion depository located inside any state other than Texas, creating a state-run system for electronic currency based upon depository holdings of bullion and specie in any state other than Texas is putting the cart before the horse – presuming a government-run transaction system is a prudent idea in the first place (which it is not).
  - Making any other depository in and controlled by another state an approved bullion depository subjects the state’s system to laws of another state (which, in the case of Texas, includes a recent digital ID law) as well as any state-controlled attributes of the out-of-state depository.
  - In all the bills/laws we have reviewed, there are no limits, other than the CFO’s discretion, on the selection and underwriting of the outside contractor/vendor that presumably would control the establishment of an in-state depository or the electronic system generally and any contracts governing the duties of the vendor [Glint/Mastercard?].
    - Would AI and blockchain (e.g., including title to in-state real estate) be involved in this system or be built out from this system? One can imagine that these statutes are preparing for such eventualities.
    - What if the state’s CFO is not competent, or compromised by powerful commercial interests with conflicts? Should a state contemplating creating a bullion depository and/or precious metals-based digital currency recruit un-conflicted experts in crypto, precious metals, etc. to be employees of the state to make key decisions, assure security and negotiate contracts needed to create a system that is loyal to the state’s residents?
  - There is no apparent provision to prevent intervention or control by the federal government or, on the other hand, that the state maintains control over the system in the event the state contractor(s) “go rogue” and deny access.
- Potential for Conflicts of Interest; Mr. Global v Small Business
  - Background of lobbying nationwide by Glint/Mastercard
  - It is solely up to the state CFO (who is not expressly to avoid them in hiring contractors) to ensure that the transactional gold system is not rife with conflicts of interest, which, among other things, leads to increase in costs and control by out-of-state interests in the case of small states.
  - There are many issues that arise in the context of public-private partnerships that pick winners and losers, setting up the government as a competitor to private businesses. These statutes may harm in-state private businesses, particularly small businesses, involved in the precious metals arena and potentially the financial arena (i.e., existing in-state financial institutions).

- The purchase or redemption money held in the depository accounts could be held at a systemically important bank or anywhere else – there is no limit, and no requirement that it be held in the state. Expect that big New York fed-member banks will lobby for funds to be held with them. If held in a single pooled account, this money is not insured by FDIC beyond the \$250,000 per “account” as defined by the FDIC insurance limit.
- Gold payment apps are already available in the private sector, anyway. What happens in the event of a sudden drop in the market value of gold and/or silver?
- Operational Issues
  - In none of these statutes are there any specific provisions or limits thereon as to insurance, security, auditing, systems requirements or conflicts of interest, among other key protections necessary to protect holders of the transactional currency, leaving the system highly vulnerable to the whims of outside contractors, who in turn may exert political control in obtaining the contractor(s) and selecting attributes and features of the system. A Solari [paper](#) addresses state bullion depositories.
  - These statutes do not protect state residents from federal government control, intervention and preemption (e.g., under the interstate commerce clause) and do not provide for any system to verify the identity of the holder upon a request for redemption or transfer to a third party. The logical way to address this is a federal ID (REAL ID), private biometric identity system or state-issued digital ID, which we vehemently oppose.
  - Nothing prevents the specie and bullion from being held in a pooled depository account (and the Ohio proposed legislation indicates as much, with Arkansas and Texas legislation failing to address the issue), with all of the risks to the holder that accompany unsegregated accounts. What financial institution will be the custodian of the bullion or coins and what is to prevent it from commingling its own or its customer holdings with those of the state’s system? A Solari [paper](#) addresses the custodial risks of gold/silver ETFs.
  - The state, presumably, would have to become involved in a system for reporting gains and losses on exchanges between federal reserve currency (dollars) and transactional currency (and bullion and specie) for capital gain purposes as well as complying with anti-money-laundering reporting requirements. This involves a whole new level of complexity, expense and federal oversight (and, potentially, involvement in litigation over rights of depositors, liability for losses, etc.).
- Costs
  - Has anyone determined how much a system of transactional currency would cost the state and where the money would come from in terms of appropriations? One state statute provides that “the parties” must agree on who bears the *account* costs, but even that does not address state costs.

- Given Gresham's Law (bad money circulates; good money is saved), as well as the tax friction in "spending" gold and silver, why are we confident that many would even use such a system?
- Particularly if trading in precious metals by consumers slows down, the costs to account holders may make transactions in precious-metals-based currency less attractive.
- Security
  - Digital -- If contractors are used to develop coding and other aspect of the database(s), how is this to be protected from hacking and use by the contractor for nefarious purposes or in its own private business? How does the state maintain control over the data in the event, e.g., that it wishes to change contractors? Will contractor data controls be the subject of audits by the state? Would the codes be held in the cloud (through Amazon Cloud Services, e.g.)? How is depositor privacy protected?
  - Physical – holding specie (coins, bullion) subjects the state in these statutes to theft and fraud losses, whether by armed thieves or crooked custodians.
  - What is to prevent a political corruption like the "coingate" scandal in Ohio (where a politically-connected gold dealer made off with funds of the Ohio Workmen's Compensation Fund)?