

**Representative Michael S. Kennedy** proposes the following substitute bill:

**SPECIE LEGAL TENDER AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael S. Kennedy**

Senate Sponsor: \_\_\_\_\_

Cosponsors:	Curtis Oda
Brian M. Greene	Douglas V. Sagers

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**LONG TITLE**

**General Description:**

This bill modifies the Specie Legal Tender Act and related provisions to address issues related to specie legal tender.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ provides that specie legal tender is not property other than money;
- ▶ addresses private right of actions;
- ▶ prohibits certain possessory actions against fiduciary specie legal tender holdings;
- ▶ imposes a study requirement for the Revenue and Taxation Interim Committee; and
- ▶ makes technical amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



25 **Utah Code Sections Affected:**

26 AMENDS:

27 **59-1-1501.1**, as enacted by Laws of Utah 2012, Chapter 399

28 **59-1-1502**, as last amended by Laws of Utah 2012, Chapter 399

29 **59-1-1505**, as enacted by Laws of Utah 2012, Chapter 399

30 ENACTS:

31 **59-1-1507**, Utah Code Annotated 1953

32 **59-1-1508**, Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **59-1-1501.1** is amended to read:

36 **59-1-1501.1. Definitions.**

37 As used in this part:

38 (1) "Gold dollar" means specie legal tender that is a one fiftieth part of a United States  
39 American Eagle or American Buffalo coin, having one troy ounce of fine gold content and a  
40 "50 dollar" nominal face value, as described in 31 U.S.C. Sec. 5112(a)(7), (a)(11), (i)(1), and  
41 (q).

42 (2) "Government entity" means:

43 (a) the state;

44 (b) an administrative unit of the state;

45 (c) a political subdivision of the state; or

46 (d) an administrative unit of a political subdivision of the state.

47 (3) "Silver dollar" means specie legal tender that is a United States American Liberty  
48 coin, having one troy ounce of fine silver content and a "One Dollar" nominal face value, as  
49 described in 31 U.S.C. Sec. 5112(e).

50 (4) Subject to Subsection 59-1-1502(3), [as used in this part,] "specie legal tender"  
51 means gold or silver coin that is issued by the United States, not including a particular coin  
52 possessing additional numismatic value by virtue of its unique and rare physical characteristics.

53 Section 2. Section **59-1-1502** is amended to read:

54 **59-1-1502. Specie legal tender is legal tender in the state -- Person may not**  
55 **compel another person to tender or accept specie legal tender -- Court or congressional**

56 **action to authorize gold or silver coin or bullion as legal tender.**

57 (1) Specie legal tender is legal tender in the state, and is not property other than money.

58 (2) Except as expressly provided by contract, a person may not compel any other  
59 person to tender or accept specie legal tender.

60 (3) Gold or silver coin or bullion, other than gold or silver coin that is issued by the  
61 United States, is considered to be specie legal tender and is legal tender in the state if:

62 (a) a court of competent jurisdiction issues a final, unappealable judgment or order  
63 determining that the state may recognize the gold or silver coin or bullion, other than gold or  
64 silver coin that is issued by the United States, as legal tender in the state; or

65 (b) Congress enacts legislation that:

66 (i) expressly provides that the gold or silver coin or bullion, other than gold or silver  
67 coin that is issued by the United States, is legal tender in the state; or

68 (ii) expressly allows the state to recognize the gold or silver coin or bullion, other than  
69 gold or silver coin that is issued by the United States, as legal tender in the state.

70 Section 3. Section **59-1-1505** is amended to read:

71 **59-1-1505. Attorney general to enforce part -- Private right of action.**

72 (1) The attorney general shall enforce this part.

73 (2) Subsection (1) does not prejudice any right a person may have to bring a civil  
74 action in a court of competent jurisdiction to address issues at law or equity between private  
75 parties.

76 Section 4. Section **59-1-1507** is enacted to read:

77 **59-1-1507. Possessory action against fiduciary specie legal tender holdings.**

78 (1) Specie legal tender that is legally within the fiduciary care, custody, or control of  
79 one person for another person may not be requisitioned, confiscated, garnished, attached, or  
80 otherwise taken into possession by a government entity or any person acting under color of law  
81 except pursuant to a court order following a hearing at which any person having a beneficial  
82 interest in the specie legal tender is given notice and an opportunity to be heard.

83 (2) Subsection (1) does not prohibit a court from temporarily ordering pursuant to an  
84 ex parte attachment petition or similar proceeding that particularly described specie legal tender  
85 be held by the fiduciary in possession pending a hearing on the merits as provided in  
86 Subsection (1).

87 (3) This section does not apply when:

88 (a) the fiduciary exercising care, custody, or control of the specie legal tender is  
89 charged in a criminal information or indictment; or

90 (b) the specie legal tender is subject to criminal forfeiture pursuant to Title 24, Chapter  
91 1, Utah Uniform Forfeiture Procedures Act, as something of value furnished or intended to be  
92 furnished in exchange for contraband, as defined in Section 24-1-3.

93 Section 5. Section **59-1-1508** is enacted to read:

94 **59-1-1508. Revenue and Taxation Interim Committee study.**

95 (1) During the 2013 interim, the Revenue and Taxation Interim Committee shall study:

96 (a) means whereby a government entity may:

97 (i) conduct transactions in specie legal tender;

98 (ii) transport and vault specie legal tender holdings;

99 (iii) insure specie legal tender holdings against loss or damage;

100 (iv) verify the weight and fineness of the gold or silver content of specie legal tender  
101 received outside of a documented chain of custody;

102 (v) physically audit specie legal tender holdings; and

103 (vi) account for public money held as specie legal tender in conformity with generally  
104 accepted accounting principles, as found in 26 C.F.R. Sec. 1.985-0 through 1.985-7, Financial  
105 Accounting Standards Board publications, and Governmental Accounting Standards Board  
106 publications;

107 (b) what distinct specie legal tender currencies, including gold dollars and silver  
108 dollars, should be authorized for use by a government entity; and

109 (c) whether Utah should authorize existing financial institutions or one or more new  
110 types of financial institutions to offer financial accounts and services denominated in one or  
111 more specie legal tender currencies.

112 (2) (a) The Revenue and Taxation Interim Committee shall solicit and consider input  
113 regarding the study items described in Subsection (1) from:

114 (i) the state treasurer;

115 (ii) the state auditor;

116 (iii) the commissioner of financial institutions;

117 (iv) the State Tax Commission; and

118 (v) persons with business, legal, accounting, legislative, or academic expertise relating  
119 to multi-currency monetary policy in general, and specie legal tender in particular.

120 (b) The persons identified in Subsection (2)(a) may collaborate in recommending  
121 legislative action, if any, for the Revenue and Taxation Interim Committee to consider.

122 (3) The Revenue and Taxation Interim Committee may prepare legislation for  
123 consideration by the Legislature during the 2014 General Session that the Revenue and  
124 Taxation Interim Committee considers warranted after the study described in Subsection (1)  
125 and consideration of the recommendations from the persons identified under Subsection (2).