

HB 1 Testimony  
Nils Andreassen  
5/15/25

Thank you for the opportunity to provide public testimony today.

Is there a preferred system for keeping track of the owners cost of acquiring each coin or stamped bullion? This will be required to comply with federal tax law, and especially the capital gains tax?

This means that Alaskans would have to keep track of cost basis of every purchase of gold coins or bullions, the market value of the services or property received, and report all income based on the difference of the cost of the gold and the value of the property or services received. Does the bill anticipate providing Alaskans with tools to avoid significant federal income tax, penalties, and interest?

How will the legislation reconcile with Wisconsin Central v United States, where the Supreme Court found that money is a medium of exchange, which does not include property?

Or the fact that the IRS, the Tax Court, and the Ninth Circuit has ruled that U.S. currency, including U.S. silver coins, having a value in excess of face value are treated as property and not money?

The U.S. Supreme Court has stated that, even if currency might be legal tender, it is "... not circulating legal tender, or 'money,' within the meaning of the federal tax laws if the value exceeds its face value. Instead, the currency is treated as "property (other than money)," and valued at fair market value for purposes of §1001(b). This is what makes it a taxable transaction. How will this legislation affect or address these federal concerns, and remove any ambiguity in their implementation?

This concept of circulating is important from a numismatic perspective. Collecting a coin or banknote becomes possible only when it is removed from circulation, even though its legal tender status is a big part of what makes it collectible in the first place. Sometimes, collectible numismatic items are legal tender, but are not actually intended for circulation.

Will this legislation address non-circulating legal tender, and how it should be approached? What regulatory guidance will be provided?

Our understanding of silver coins of the United States that are legal tender includes nickels, dimes, and quarters. Does the Committee have a more complete list of what would be considered under this bill? In fact, the Coinage Act of 1965 already states that these are legal tender for all public debts. How does this bill intersect with or build upon that federal legislation?

This legislation says that persons are not required to accept gold and silver specie. But the state and local governments are not persons. Would they have to? Is the State prepared to? I would argue that local governments are not...

Just to be clear, AS 01.10.060 (Definitions), says that (a) *In the laws of the state, unless the context otherwise requires, (8) "person" includes a corporation, company, partnership, firm,*

*association, organization, business trust, or society, as well as a natural person.* It does not include municipality, which is defined in AS 01.10.060(A)(6), or State, which is defined in AS 01.10.060(A)(13); neither definition hints at either being persons.

Will the state hire an Assayer to assist in the verification of the weight and purity of any special legal tender? Should local governments be prepared to do the same? Will the State maintain a list of approved Assayers?

An Assayer in other states has received a fiscal note of between \$61,000 and \$193,000. Is that the intent here? Will there be a State Assayer? Which department would this be a function of?

Will the State maintain a list of approved assayers and assessors? Are they currently licensed, or is there a licensing process? Should there be a board or commission established to oversee regulatory implementation and provide guidance? How many approved assayers currently exist in the state, and what is their geographic dispensation?

What would be the regulations necessary to determine price? Would the state use spot price, which changes daily? Is there an official spot price platform to be used?

The State may choose spot price plus market premium. How should anyone accepting specie manage the variation or spread?

Or, does the State prefer specie at their par value?

One example of this discussion: Let's say the par value for gold is \$42.22 per ounce. The spot price for gold on 2/2/2023 was \$1,932.00 and the spot price for silver was \$0.76 per gram. In addition, the market premium for gold is currently 2% - 3.75%. This proposal does not specify which rate the state should use when calculating a dollar value for the market premium.

Therefore, on 2/2/2023 the state would have to accept an ounce of gold for \$ 1,070.64 to \$2,004.45 per ounce. Because the spot price changes daily, it is possible that an agency could accept a certain dollar value of gold and/or silver one day, but receive a different amount when those assets were converted to dollars.

Will DOR promulgate rules for the method(s) of accepting gold/silver specie for debts owed to the state? Will DCRA do the same in support of local governments?

How should local governments account for gold and silver specie? Would it be considered cash, investments, or assets? What are best practices for implementing this within governmental accounting standards?

It should be noted that Alaskans already use all US minted coins as they are already considered legal tender. This includes commemorative coins. These coins are used as tender at their face value, or would otherwise be considered collectibles.

How would foreign coins be treated, or used? I assume it would be based on weight and purity, and not on face value or exchange rate, is that right? Do we have a guide to that valuation, or

which foreign coins are minted thus? Would, for instance, the State recommend the phone-book sized volumes of the *Standard Catalog of World Coins*, where you'll find tens of thousands of Non-Circulating Legal Tender listings?

Should we assume that Troopers and municipal police will have some role in managing lawfulness with regard to Title 18 of the US Code, Section 486 - Uttering coins of gold, silver or other metal?

Will the State provide guidance to residents about those authorized by law to make or 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 countries? Essentially, federal law prohibits the use of privately created gold and/or silver coins from being used as currency.

Acceptance of coins not considered legal tender per this federal statute can result in felony charges being brought by the Federal Government. While this proposal expands on the federal definition, should we assume that we should only accept specie coins created by the U.S. Mint or Federal Government and can refuse any other coins, until legal guidance suggests otherwise?

Does this create a market for counterfeiting, and how will the State manage and avoid this practice? I'm guessing there aren't glow in the dark pens that can be used...

Is it right that costs incurred in the course of verification of the weight and purity of any specie legal tender during any such transaction shall be borne by the receiving entity? How does the legislation address this?

Which banks operating in Alaska currently accept gold and silver specie or bullion? Where should receiving authorities keep or manage these physical assets, if not kept at the bank? Will that look different between Kalskag, Kotzebue, and Kenai, in terms of access to secure facilities, or the ability to exchange for dollars?

As you can see, we have more questions than answers and encourage this committee to work to address each prior to advancing any legislation that creates uncertainty, legal or financial liability, or unintended consequences.