

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

February 2, 2023

3:00 p.m.

**MEMBERS PRESENT**

Representative Laddie Shaw, Chair  
Representative Stanley Wright, Vice Chair  
Representative Ben Carpenter  
Representative Craig Johnson  
Representative Jamie Allard  
Representative Jennie Armstrong  
Representative Andi Story

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 3

"An Act relating to specie as legal tender in the state; and relating to borough and city sales and use taxes on specie."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 3

SHORT TITLE: GOLD AND SILVER SPECIE AS LEGAL TENDER

SPONSOR(S): REPRESENTATIVE(S) MCCABE

01/19/23	(H)	PREFILE RELEASED 1/9/23
01/19/23	(H)	READ THE FIRST TIME - REFERRALS
01/19/23	(H)	CRA, STA, FIN
01/25/23	(H)	CRA REFERRAL REMOVED
01/25/23	(H)	BILL REPRINTED
02/02/23	(H)	STA AT 3:00 PM GRUENBERG 120

**WITNESS REGISTER**

REPRESENTATIVE KEVIN MCCABE

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 3, as the prime sponsor.

JULIE MORRIS, Staff  
Representative Kevin McCabe  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented a sectional analysis of HB 3, on behalf of Representative McCabe, prime sponsor.

JP CORTEZ, Policy Director  
Sound Money Defense  
Juneau, Alaska

**POSITION STATEMENT:** Provided invited testimony during the hearing on HB 3.

PAM LEARY, Director  
Treasury Division  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 3.

#### **ACTION NARRATIVE**

[3:00:41 PM](#)

**CHAIR LADDIE SHAW** called the House State Affairs Standing Committee meeting to order at 3:00 p.m. Representatives Carpenter, Allard, Armstrong, Story, Wright, and Shaw were present at the call to order. Representative C. Johnson arrived as the meeting was in progress.

#### **HB 3-GOLD AND SILVER SPECIE AS LEGAL TENDER**

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CHAIR SHAW announced that the only order of business would be HOUSE BILL NO. 3, "An Act relating to specie as legal tender in the state; and relating to borough and city sales and use taxes on specie."

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REPRESENTATIVE KEVIN MCCABE, Alaska State Legislature, prime sponsor, introduced HB 3. He paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

The purpose of HB 3 is to recognize Alaska's constitutional duty, power and right under Section 10, Article I, of the United States Constitution, and the Tenth Amendment of the United States Constitution to make gold and silver legal tender in the payment of debt.

HB 3 will secure the rights of citizens of this state under the Ninth and Tenth Amendments of the United States Constitution to tender gold and silver in the payment of a debt should the merchant or payee agree to accept it.

This bill will bring Alaska into full compliance with the United States Constitution with the policies, practices, and procedures of this State with respect to the use of gold, silver, and specie as legal tender in the payment of debt.

In these unprecedented times, this bill will preserve, protect, and promote the state and its economic security, safety, health, and welfare of the people of this state; and protect this state and its citizens in the acquisition and possession of gold and silver and their use as legal tender in the payment of debt.

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JULIE MORRIS, Staff, Representative Kevin McCabe, Alaska State Legislature, on behalf of Representative McCabe, prime sponsor of HB 3, presented the sectional analysis [included in the committee packet], which read as follows [original punctuation provided]:

Section 1 amends A.S. 29.45.650(a) to include a new subsection (l) outlined under Section 2 below.

Section 2 amends AS 29.45.650 to add a new subsection to protect "specie" from a borough sales or use tax on the sale or exchange of specie.

Section 3 amends AS 29.45.700(a) to include a new subsection (h) outlined under Section 4 below.

Section 4 amends AS 29.45.700 to add a new subsection to protect "specie" from a city sales or use tax on the sale or exchange of specie.

Section 5 amends AS 44.12 to add Article 5. Legal Tender which defines "legal tender" in the state to include gold and silver tender including "specie." This section also states that person is not required to accept gold or silver specie as tender and defines "specie" and "legal tender."

Section 5 is further amended by adding a new section to read: "The House Finance committee shall study the possibility of establishing additional forms of legal tender for the payment of debts, including public charges, taxes, and other money owed to the state. If the committee determines that additional forms of tender are practical and beneficial, the committee shall prepare legislation establishing an additional form of legal tender for introduction."

Section 6. Section 4, ch. 100, SLA 2002, as repealed and reenacted by sec. 9, ch. 117, SLA 2003 and sec. 2, ch 30, SLA 2005 is repealed, reenacted, and amended to read as outlined in Section 1 above.

CHAIR SHAW invited questions from committee members.

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REPRESENTATIVE ALLARD referenced the zero fiscal note for HB 3. She asked how much it would cost to produce [goldbacks].

REPRESENTATIVE MCCABE deferred the question to the invited testifiers and directed Representative Allard to [www.goldback.com](http://www.goldback.com) for a more detailed explanation of how the state could make an investment in producing goldbacks. He suggested that the Alaska State Council on the Arts could design the face of an "Alaska goldback," should the state produce them in the future. He reported that Nevada, Utah, New Hampshire, and Wyoming had all undertaken the printing of goldbacks from their state treasuries. He offered to follow up on the cost of production.

REPRESENTATIVE ALLARD asked whether it were possible to pay for groceries with goldbacks in Wyoming.

REPRESENTATIVE MCCABE said if the bill were enacted, a person could use a Wyoming goldback to pay any Alaska merchant that accepted gold or silver specie as tender.

REPRESENTATIVE ALLARD clarified her question. She sought to confirm that in Wyoming, residents could pay for groceries using goldbacks.

REPRESENTATIVE MCCABE answered, "sure." He remarked, "If you buy a gold coin for 500 bucks and now it's worth 1,500 bucks ... when you spend that gold coin, you're responsible for [those] 1,000 dollars' worth of taxes, because - you bought it as an investment. It would be the same with these until we change the law." He compared the goldback to a five-dollar bill ("greenback"), in terms of not paying taxes on the value of the bill.

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REPRESENTATIVE C. JOHNSON asked whether there was an inter-state compact that allowed for the use of tender printed by another state. He asked the bill sponsor to clarify the legal mechanisms that made this possible.

REPRESENTATIVE MCCABE shared his understanding that, according to the U.S. Constitution, a state could not print its own money unless it was gold or silver.

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REPRESENTATIVE STORY inquired about the financial impact to municipalities.

REPRESENTATIVE MCCABE estimated that the revenue would be "nil." He shared his understanding that it was a difficult metric to track.

REPRESENTATIVE STORY asked whether municipalities could provide an impact analysis.

REPRESENTATIVE MCCABE said he was unsure how they would collect that data. He offered to follow up with the requested information.

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REPRESENTATIVE ARMSTRONG inquired about the intent of the study to be conducted by the House Finance Committee outlined in Section 5 of the bill. She asked whether the goal of the study

was to analyze forms of legal tender additional to gold and silver.

REPRESENTATIVE MCCABE answered no. He clarified that "specie" was an aggregate of gold coins, silver coins, and goldbacks. He indicated that the study would focus on goldbacks.

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REPRESENTATIVE ALLARD asked whether it would be mandatory for merchants to accept goldbacks if the bill were to pass.

REPRESENTATIVE MCCABE answered no. He pointed out that the bill specifically provided that a merchant would not be required to accept them.

REPRESENTATIVE ARMSTRONG asked whether counterfeiting was a concern and whether research had been conducted on that topic.

REPRESENTATIVE MCCABE confirmed that research had been conducted on counterfeiting. He shared his understanding that it was difficult to counterfeit [a goldback].

CHAIR SHAW commenced invited testimony.

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JP CORTEZ, Policy Director, Sound Money Defense, expressed his support for HB 3. He declared that the measure would ensure that gold and silver coins, as well as bouillons, would not be subject to taxes, levied by localities, municipalities, and boroughs. He explained that sales tax on these items would discourage Alaskan citizens from owning gold and silver and saving their wealth. He pointed out that per Article 1, Section 10 of the U.S. Constitution, gold and silver was considered money. He highlighted additional considerations against the taxation of gold and silver as a specie, pointing out that real estate, bonds, and stocks were assets held for resale and therefore, not subject to sales tax. For that reason, he argued that gold and silver should not be taxed either. Furthermore, he posited that taxing gold and silver would harm local businesses. Lastly, he stated that gold and silver was not an asset "held by fat cats," indicating that it was typically invested in by small-time savers or collectors. He added that low-income households were disproportionately harmed by inflation. He reported that in 2023, the trend was to remove taxes on precious metals. He detailed legislative milestones in

other states, specifically Wyoming, pertaining to the reduction or elimination of tax on gold and silver. As a point of comparison, he reported that in 2022, Tennessee passed a full sales tax exemption on all gold, silver, and platinum within the state, which was accompanied by a fiscal note of \$350,000.

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REPRESENTATIVE C. JOHNSON sought to confirm that there would be zero impact on communities, as they would still collect a sales tax in the form of gold and silver.

MR. CORTEZ clarified that the tax would be determined by the price of gold and the size of the gain. He confirmed that the asset would not be wholly exempt from taxation, as it would still be taxed on the back end.

REPRESENTATIVE C. JOHNSON sought to confirm that goods and services would continue to be taxed; however, the sale of gold and silver as a legal tender would not be taxed.

MR. CORTEZ answered yes, the sales tax on gold and silver would not apply if the proposed legislation were to pass; however, the tax on the use - the capital gains tax - would still apply.

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REPRESENTATIVE CARPENTER asked whether the definition of "specie" included raw gold and silver, such as a gold nugget.

MR. CORTEZ emphasized that in order to qualify as "specie" or "bullion," the gold must be refined in a specific way and imprinted with its weight and purity on it. He indicated that gold nuggets would not be included, as they were not refined or minted.

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REPRESENTATIVE ARMSTRONG sought to confirm that the bill was not proposing the creation of a state mint. Instead, people would be given the option to purchase Alaska goldbacks from a third-party website not run by the state. She asked if that was correct.

REPRESENTATIVE MCCABE answered yes, a third party could decide to print Alaska goldbacks. He indicated that, [in the future], it would be optional for Alaska to print state goldbacks.

REPRESENTATIVE ARMSTRONG asked whether the purpose of the study referenced in Section 5 of the bill was to follow up on this idea.

REPRESENTATIVE MCCABE confirmed. In response to a previous question from C. Johnson regarding taxation, he clarified that sales tax would still apply to purchases made in Juneau, for example. However, the gold specie used to pay for said purchase would not itself be taxed.

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REPRESENTATIVE STORY asked how the value [of goldbacks] was determined and identified. Additionally, she asked how Alaska's institutions would define the weight and purity and assign value to it.

REPRESENTATIVE MCCABE stated that the weight in value was printed on them. For example, a \$1 [goldback] was 1/1,000 of a troy ounce of gold, he shared. He explained that the merchant and buyer would be responsible for coming to an agreement and setting the rules of each transaction. He provided a hypothetical scenario of a merchant setting the value of a \$1 goldback based on the price of gold. He indicated that the specie would allow the smaller investor to invest in something other than dollars, which depreciate each year via inflation.

REPRESENTATIVE STORY asked how financial institutions would manage coins and determine their value.

MR. CORTEZ conveyed that real-time pricing existed.

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REPRESENTATIVE CARPENTER asked whether goldbacks followed the same process as greenbacks.

REPRESENTATIVE MCCABE said goldbacks didn't need to follow the same process, because they have intrinsic value in and of itself; therefore, he opined that a bank wasn't necessary. He referred to a bank, known as HSBC, in Hong Kong that bought and sold in gold coins routinely.

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REPRESENTATIVE STORY asked how the value of each goldback was guaranteed.

MR. CORTEZ said authentication methods existed for goldbacks, coins, and bars; however, he reiterated his understanding that gold backs were never counterfeited, as their manufacturing process was intensive and laborious. He described the physical makeup of goldbacks, which consisted of physical gold inlayed between two polymers. He highlighted the existence of a cell phone application that determined the authenticity of gold and silver tender.

REPRESENTATIVE STORY pointed out that banks backed by the Federal Reserve System offer more protections. She inquired about consumer protection in regard to HB 3.

REPRESENTATIVE MCCABE explained how, due to inflation, a 100-dollar bill that's sitting in a piggy bank would be worth 18 percent less in buying power after one year. Goldbacks would not depreciate in the same way, he said, because they're intrinsically based on the value of gold.

REPRESENTATIVE STORY mentioned that the price of gold also fluctuated.

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REPRESENTATIVE WRIGHT questioned whether states that had ratified similar laws faced issues or "blowback."

REPRESENTATIVE MCCABE shared that, to his knowledge, there had been no issues in other states.

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REPRESENTATIVE C. JOHNSON highlighted the disparity in value between goldbacks in other states, specifically Utah versus Nevada. He asked what accounted for the disparity in value.

REPRESENTATIVE MCCABE remarked, "It's no different than if you buy a krugerrand or a U.S. double eagle. A krugerrand, to certain people, has more value because it's a krugerrand." He indicated that although both [a krugerrand and a gold eagle] are composed of one troy ounce of gold, some people value the design of one over the other.

MR. CORTEZ, in response to Representative C. Johnson, highlighted levels of production as another consideration. He explained that Utah was the first state to establish a legal tender law in 2011 and "roll out" the goldbacks. He suggested that the difference in cost could be attributed to the fact that there were presumably more Utah goldbacks that had been printed and disseminated.

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REPRESENTATIVE MCCABE, in response to a follow up question from Representative C. Johnson, considered the example of a two-dollar bill. He explained that if a person acquired a two-dollar bill for \$3, he/she would only be able to use it to purchase something at face value, \$2.

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REPRESENTATIVE ALLARD considered a scenario in which Alaska had the capability to produce state goldbacks and asked whether, in the future, it would be possible to turn a gold bar into a goldback.

REPRESENTATIVE MCCABE said eventually, that could be a possibility. He added that a person could take a gold bar to Utah or Wyoming right now and turn it into [goldbacks].

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REPRESENTATIVE CARPENTER considered a scenario in which an individual acquired a 1/1,000 troy ounce goldback for \$3. He asked whether the next day, the value of the goldback could be worth \$2.

REPRESENTATIVE MCCABE answered yes.

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REPRESENTATIVE ARMSTRONG inquired about the difference in value between a "one dollar" goldback bill versus a "five dollar" goldback bill. She asked whether a "one dollar" goldback bill converted to \$1 or whether the merchant would have to look up the price of gold to determine the value.

REPRESENTATIVE MCCABE clarified that the merchant would need to look up the price of 1/1,000 of a troy ounce of gold to determine the value of the goldback bill.

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REPRESENTATIVE STORY asked whether goldbacks were collectable. Additionally, she asked whether the intent was to prevent the exemption of collectables from taxation.

REPRESENTATIVE MCCABE confirmed that it could be considered a collectable, similar to a two-dollar bill. He added that [the value] depended on the commodity of trade.

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MR. CORTEZ noted that there was generally a difference between gold/silver coins, which were priced primarily on their value as a metal, and other collectables, for which there was a stark difference in value between their metal content and what someone might pay for them.

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REPRESENTATIVE ALLARD asked why this subject matter was important to the bill sponsor.

REPRESENTATIVE MCCABE said the idea came from a constituent who wanted to mitigate the risk of holding dollar bills in a safe or in a bank. He emphasized that the proposed legislation offered another way to accumulate or store wealth.

REPRESENTATIVE STORY asked whether the Department of Revenue (DOR) had taken a position on the bill.

REPRESENTATIVE MCCABE deferred to Pam Leary, DOR.

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REPRESENTATIVE STORY inquired about the effect of receiving payment in gold or silver. She acknowledged that a merchant would not be required to accept gold or silver specie as tender. She asked whether Alaska was prepared for this proposal.

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PAM LEARY, Director, Treasury Division, DOR, said she understood the concerns about sales tax on currency. She shared her understanding that in regard to the use of a specie to purchase an item, tax would be incurred on the purchased item, as opposed

to on the specie itself. She added that the value would be decided by the buyer and seller. She referenced the study to be conducted by the House Finance Committee in Section 5 of HB 3. She pointed out that the value of goldbacks change; therefore, the state would bear the risk of the valuation if Alaska were to accept goldbacks to pay for debts like taxes. She further noted that the state did not have any material exposure or any focused investment in precious metals. For that reason, it was not an area of expertise within the Treasury Division. She concluded by declining to comment on other states, as she had not yet had the opportunity to learn about their practices.

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The committee took a brief at-ease.

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CHAIR SHAW opened public testimony on HB 3. After ascertaining that no one in the room or online wished to testify, he closed public testimony. He announced that HB 3 would be held over.

[3:50:00 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 3:50 p.m.