



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1633

bullion depository; establishment

Purpose

Establishes the Arizona Bullion Depository (Depository). Grants the Department of Insurance and Financial Institutions (DIFI) administrative authority and outlines duties, procedures and audit requirements.

Background

The Department of Insurance and Financial Institutions (DIFI) was established to safeguard the public welfare by licensing, examining, and supervising financial institutions and enterprises in compliance with state laws. The Director of DIFI (Director), who is appointed by the Governor, must have business experience and be well versed in financial institution matters, in addition to other prescribed requirements (A.R.S. §§ [6-181](#) and [20-141](#)).

The State Treasurer is responsible for the safekeeping of all securities for which the State Treasurer is the lawful custodian. Securities may be deposited for safekeeping with any bank eligible to be the state servicing bank or any trust company or trust department of any bank qualified to do business in Arizona. The State Treasurer must invest and reinvest trust and treasury monies in outlined obligations, bonds and other permitted investments ([A.R.S. Title 35, Chapter 2, Article 2](#)).

Federal law recognizes coins and currency, including Federal Reserve and national bank notes, as legal tender for the payment of all debts, public charges, taxes and dues. Foreign gold or silver coins are not recognized as legal tender for debt payment purposes. The U.S. Constitution prohibits individual states from coining money, emitting bills of credit and making anything, except for gold and silver coins, legal tender ([31 U.S.C. § 5103](#)).

If net Depository fee proceeds exceed DIFI administrative costs, there may be a fiscal impact to the state General Fund.

Provisions

Depository Standards and Reporting Requirements

1. Establishes the Depository to serve as the custodian, guardian and administrator of certain bullion and specie that may be transferred to or otherwise acquired by the state, a state agency, a political subdivision or another instrumentality of Arizona (governmental entities).
2. Directs DIFI to administer the Depository through an Administrator who is hired by the Director and serves at the discretion of the Director.

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3. Allows the State Treasurer to deposit a portion of state monies in the Depository in the form of bullion and considers such bullion deposits as part of the state's financial reserves.
4. Defines *bullion* as precious metals that are limited to gold and silver and that are formed into uniform shapes and quantities such as ingots, bars or plates that have uniform content and purity and that are suitable for or customarily used in the purchase, sale, storage, transfer and delivery of bulk or wholesale transactions in precious metals.
5. Defines *specie* as a precious metal that is limited to gold and silver and that is stamped into coins of uniform shape, size, design, content and purity that are suitable for or customarily used as currency, as a medium of exchange or as the medium for purchase, sale, storage, transfer or delivery of precious metals in retail or wholesale transactions.
6. Requires the Depository to provide a secure location for storing bullion.
7. Allows DIFI to contract with a third party to administer the daily operations of the Depository and implement the Depository security, storage, transactional and administrative procedures.
8. Allows governmental entities to use the Depository to store bullion.
9. Prohibits foreign nations and U.S. enemies from using any services provided by the Depository.
10. Allows the Depository, in accordance with rules adopted by the Director, to receive a deposit of bullion or specie to ensure compliance with the law and protect the interests of the public, government entities and the Depository and its account holders.
11. Requires the Depository to:
 - a) record the amount of precious metals deposited, regardless of form, in units of pure troy ounces and specify the type and quantity of each precious metal; and
 - b) adjust each Depository account balance to reflect Depository account additions, withdrawals or deliveries.
12. Requires the Administrator to:
 - a) manage, supervise and direct the operations and affairs of the Depository and Depository agents;
 - b) for Depository transactions involving state monies, governmental entities or private persons, liaise with DIFI to ensure that each transaction is planned, administered and executed in a prescribed manner; and
 - c) ensure that the Depository has current and efficient safety protocols to prevent theft, fraud or unauthorized access to or removal of bullion.
13. Allows the Administrator to:
 - a) subject to the Director's approval, appoint or employ a Deputy Administrator or other subordinate officers or employees as necessary to properly effectuate the Depository administration; and
 - b) employ security officers to provide security services for the Depository as necessary.

14. Stipulates that the Administrator or any employee, official or third party associated with the Depository's oversight or operation must meet the following criteria:
 - a) have no financial interests in any company or entity that produces, sells or manages bullion; and
 - b) immediately disclose upon discovery any potential conflict of interest to DIFI.
15. Specifies that a violation of the financial interest and conflict of interest criteria may result in termination, fines or other legal penalties as determined by DIFI.
16. Requires DIFI to contract with an independent third party that is an established provider with a proven record of providing auditing services to depository institutions for the purpose of conducting audits at least twice each year to verify the amount and value of the bullion and specie stored in the Depository and to inspect security measures and safety protocols in place.
17. Allows the public to request a summary of totals of previous precious metal amounts and any discrepancies found during an audit conducted by an eligible independent third party.
18. Exempts, from public disclosure, information that would jeopardize confidential Depository information or the Depository's security protocols.
19. Requires the Administrator to provide quarterly reports to DIFI detailing the operations, transactions and financial status of the Depository.
20. Requires DIFI, by June 30, to submit an annual report to the President of the Senate and Speaker of the House of Representatives and provide a copy to the Secretary of State.

Transactional Currency Issuance and Redemption

21. Requires the Director to issue specie and establish a transactional currency, as deemed practicable, and to:
 - a) for transactional currency, establish a means to ensure that:
 - i. a person or the state that holds transactional currency may use it as legal tender to pay a debt or assign it to another person or the state; and
 - ii. the electronic means of the transfer of transactional currency to another person or the state is expedient; and
 - b) for specie, authorize the Depository as the state's exclusive issuer and ensure:
 - i. that the specie holder may use the specie as legal tender to pay a debt; and
 - ii. the expedient transfer of transactional currency to another person or the state and that specie is readily transferable.
22. Allows the Director to contract with a private vendor to establish the transactional currency or perform other statutory duties.
23. Requires the Director, who serves as trustee, or the Director's designee to:
 - a) on behalf of the transactional currency holders, hold in trust all specie and bullion owned or purchased for transactional purposes;
 - b) maintain enough specie or bullion to provide for the redemption of all units of the transactional currency issued but not redeemed; and
 - c) establish a Pooled Depository Account in the Depository to hold in trust all owned, allocated or purchased specie and bullion on behalf of transactional currency holders.

24. Requires the Administrator to issue transactional currency to a person or the state on payment:
 - a) to the Depository to purchase specie or bullion, or both, and on payment of an applicable fee; and
 - b) to designate specie or bullion, or both, held on account and on payment of an applicable fee.
25. Requires the Director after receiving payment of the applicable fee to:
 - a) use the received payment to buy specie or bullion, or both, in the number of troy ounces of precious metal equal to the number of units of transactional currency and issue that transactional currency to the purchaser;
 - b) deposit such specie or bullion into the Pooled Depository Account for the purchaser;
 - c) issue to the purchaser an account with, or add to an existing account, a number of units of the transactional currency equal to the amount of specie or bullion that the received purchase monies would buy at the market price on that date as published by the Depository.
26. Allows a person who holds transactional currency to present to the Administrator any number of units of transactional currency to redeem for U.S. dollars and requires the Administrator, on receipt of a request for redemption, to:
 - a) sell from the specie or bullion held in the Pooled Depository Account a number of troy ounces of specie or bullion equal to the number of U.S. dollars of the transactional currency that is being redeemed; and
 - b) provide the person an amount of U.S. dollars equal to the amount received from the sale of specie or bullion, minus the fee charged.
27. Allows an account holder who holds transactional currency to present to the Administrator any number of units of the transactional currency to redeem for an equal number of troy ounces of specie or bullion from the Pooled Depository Account and requires the Administrator, on receipt of a request for redemption, to:
 - a) withdraw the equivalent number of troy ounces of specie or bullion from the Pooled Depository Account; and
 - b) deliver the specie or bullion as requested to the requestor on receipt of the fee.
28. Requires the Director, at the time of each transaction that issues or redeems transactional currency, to determine the value of a unit of the transactional currency as published by the Depository and requires the value of a unit of transactional currency to equal the value of the appropriate fraction of a troy ounce of precious metal as published by the Depository.
29. Specifies that specie, bullion and monies in the Pooled Depository Account are held by the Director on behalf of the transactional currency holders and are not available for legislative appropriation.

Fees and Rulemaking Authority

30. Requires DIFI to establish the prescribed fees and adopt rules for the state's use of the Depository.
31. Authorizes DIFI to use up to 10 percent of the prescribed fees to administer the Depository.

32. Requires the Director to deposit any net Depository fee proceeds after administrative costs in the state General Fund.
33. Allows DIFI to charge a standard industry merchant fee.
34. Allows the Director to adopt rules as necessary or convenient to:
 - a) ensure the security of specie, bullion, transactional currency, transactions and related data;
 - b) prevent fraud; and
 - c) prevent the release of any Depository account information or Depository account holder-related data subject to a court order.

Miscellaneous

35. Defines terms.
36. Becomes effective on the general effective date.

Prepared by Senate Research
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