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## Summary and Recommendations: A bullion depository is not feasible in Tennessee, but the state should consider a sales tax exemption for precious metal coins and bullion.

Tennesseans purchase precious metals for a variety of reasons, and all buyers of precious metals need a way to store them. The options for storage include home safes, safe deposit boxes in a bank, and purpose-built depositories, which can offer additional services beyond storage. Presently, there are no depositories in Tennessee, so Tennessee residents desiring to store precious metals in a depository must do so out of state.

Proponents of a Tennessee depository say that investments in gold, which could be stored in a state-backed depository, could protect the State of Tennessee and its residents during severe economic downturns. They say that the advantages for an in-state depository include creating a revenue source for the state, primarily through storage fees, and providing additional services to its customers such as facilitating in-kind transactions between depositors. Additionally, they say a state depository could serve as a first step towards the state creating a state-backed currency. Public Chapter 585, Acts of 2021, directs TACIR to “study the feasibility of creating a state gold depository, including whether other states or jurisdictions have created one.” The first and only state bullion depository in the United States is the Texas Bullion Depository. In addition, there are at least a dozen private depositories located throughout the United States. Studying these, the Commission finds that because of high costs, a lack of demonstrated demand, and the fact that precious metals are not exempt from sales taxes in Tennessee, a state depository is not feasible. While exempting precious metals from the sales tax would not in itself make a depository feasible, there are other reasons for the state to consider this option.

### ***Building and operating a state depository would be costly.***

According to depository officials in other states, building a new depository would have substantial up-front costs, potentially costing millions or tens of millions of dollars. The cost is high because a depository requires specialized design features, like high-quality vault doors and full-time surveillance, and because sewer pipes could be a point of entry, the pipes would have to be too small to crawl through. Many of these security features are required for insurance purposes, according to a Lloyd’s of London broker with experience insuring depositories. Measures would also need to be taken to prevent counterfeiting, money laundering, ransomware attacks, and other criminal activity.

The Commission finds that because of high costs, a lack of demonstrated demand, and the fact that precious metals are not exempt from sales taxes in Tennessee, a state depository is not feasible. While exempting precious metals from the sales tax would not in itself make a depository feasible, there are other reasons for the state to consider this option.

Tennessee would face challenges for attracting enough deposits to make a depository financially viable.

In a state-run depository, the state would cover these costs. Alternatively, the state could enter into a partnership with a private entity that would cover some of the cost, as was done in Texas, but the state would still need to ensure adequate administration and oversight—a director, auditors, security, and legal staff. Although state oversight would be an attractive feature for some depositors, it could cost the state a few hundred thousand dollars per year or more.

In Texas, the state entered into a public-private partnership with the goal of the private partner covering the depository's up-front cost. But the State of Texas and local governments in Texas do bear some costs. The state appropriated an average of \$175,000 for fiscal year 2019-20 through fiscal year 2022-23 for security and administrative oversight, and recently authorized a \$20 million bond to buy the depository and lease it back to the private partner. Costs to local governments where the private partner agreed to locate the depository include a \$4 million incentive package by the city and property tax rebates provided by the county. Some stakeholders have suggested that, instead of constructing a depository in Tennessee, an existing bank vault might be used. But banks have not expressed much interest in this idea, and some depositors would see having their deposits inside the banking system as a negative.

Regardless of whether the state depository is state-run or a public-private partnership, the state would bear reputational risk of ensuring the viability of the depository. One type of reputational risk is headline risk—the risk that a newspaper headline about the depository reflects poorly on the state. In particular, for a public-private partnership, if the partner fails to perform per the agreement, the state may have to either temporarily manage the depository or begin the process of contracting with another partner.

Tennessee would face challenges for attracting enough deposits to make a depository financially viable. Revenue sources from a depository include storage fees and fees for assisting with transactions, account set-up, withdrawal, customer room usage, transporting the precious metal, in-person pick-up, and other fees. Of these, depository officials say that storage fees are most important, and the value of the deposits determines much of a depository's revenue. They say that to make enough revenue from storage fees to cover costs, a depository would probably need a minimum of approximately \$1 billion in deposits, and without a large initial deposit, it could take many years to reach that amount. The deposits held by the Texas Bullion Depository are less than what was anticipated and are currently not enough for the depository to break even.

Officials of the Texas Bullion Depository say that the value of its deposits has increased to as much as \$130 million, but that is not enough for the depository to break even. Initially, Texas officials anticipated that the

University of Texas/Texas A&M Investment Management Company (UTIMCO) endowment would deposit its \$763 million in gold in the Texas Bullion Depository. Instead, believing that systemic risks were falling, UTIMCO sold the gold over a multi-year period, selling the last of the gold in August 2020. Before they sold the gold, investment managers at UTIMCO said that they wouldn't move the endowment's gold from New York City to Texas unless storage was cheaper and unless the Texas Bullion Depository became a member of COMEX—a market for gold and other precious metals. COMEX provides liquidity (the ability to buy or sell) and facilitates derivatives (futures and options) trading that could be a source of revenue for a depository. The Texas Bullion Depository applied to become a member of COMEX but has not yet been approved, in part because it is more than 150 miles from New York City—the maximum distance for a depository to be considered for membership under COMEX's current rules.

For a state depository in Tennessee to reach enough in deposits to be viable, it would probably need deposits from both individual investors and managers of institutional investment funds. But it seems to be rare for managers of large investment funds like university endowments to invest in gold. For example, the University of Tennessee endowment, which manages \$1 billion, does not currently invest in gold. If a university endowment did invest in gold, they may want to store it at a depository that is part of COMEX, as was the case with the University of Texas endowment. Like Texas, a gold depository in Tennessee would be too far from New York City to be part of COMEX.

The State Treasury of Tennessee manages \$86 billion in investments; however, as is the case in all 50 states, Tennessee state law does not authorize the Treasury to invest in gold. Moreover, Tennessee's treasury funds have boards of trustees whose policies also do not authorize the Treasury to invest any of its funds in gold. The treasurer said that it would take an appropriation by the General Assembly for the Treasury to invest in gold. The appropriation may even need to specify that the Treasury store it in Tennessee because otherwise investment managers could decide to store it elsewhere. In addition to not being authorized to do so, state treasuries do not invest in gold because holding gold does not generate any revenue; you'd have to sell some of the gold to get the revenue to pay pensioners, for instance. Proponents of a state depository say that it would improve the state's solvency, but the State of Tennessee has a AAA bond rating and has won awards for strong financial management.

Although individual investors and collectors can currently store their precious metals at home, in a safe deposit box, or in an out-of-state depository, some individuals may want to store their precious metals in a depository located in Tennessee. The fact that there is no private depository in Tennessee to meet this demand suggests the demand is not high enough

To be viable, a depository would probably need deposits from both individual investors and managers of institutional investment funds. But it seems to be rare for managers of large investment funds like university endowments to invest in gold.

Stakeholders say that Tennessee's sales tax on precious metal coins and bullion is one factor that stands in the way of the viability of a depository in Tennessee.

Another factor is Tennessee's location outside of established markets for gold and silver such as COMEX.

In addition, the State Treasury is not authorized, or inclined, to invest in gold.

to support one, which raises the question as to whether there are other factors that make Tennessee a less attractive location for a depository.

**Stakeholders say that Tennessee's sales tax makes buying and storing gold in Tennessee less attractive than in states that do not tax the sales.**

Tennessee is one of only eight states—of the 45 states with a sales tax—that does not exempt any of the sales of precious metal coins and bullion. Of the 37 states with an exemption, 26 exempt all sales of precious metal coins and bullion. The other 11 states have exemptions that tend to target exempting sales of precious metals bought as an investment while keeping the sales tax for other purchases.

The trend in recent years is that more states are exempting sales of precious metal coins and bullion. In the past 10 years, 12 states have added an exemption for at least some purchases. Eight of the 12 states exempted all sales of precious metal coins and bullion, and the other four enacted partial exemptions.

Anyone buying and storing precious metals in Tennessee owes Tennessee's sales tax, and state and local rates combined can be as high as 9.75%. And the states' authority to enforce collections was expanded by the 2018 US Supreme Court decision *South Dakota v. Wayfair*, which enabled states to require out-of-state sellers to collect and remit sales tax. Because of this requirement, some out-of-state dealers and depositories instruct their customers to avoid paying sales tax by storing the precious metals in a state that does not tax the sales. For example, the Texas Bullion Depository website says that "by buying and keeping their precious metals in Texas, investors can avoid paying a sales tax on the purchases."

Stakeholders say that Tennessee's sales tax on precious metal coins and bullion is one factor that stands in the way of the viability of a depository in Tennessee because Tennesseans can avoid paying sales tax by buying and storing precious metals in states that do not tax the sales. But a sales tax exemption on its own may not generate enough demand to cover the high cost of building and operating a depository. Another factor is Tennessee's location outside of established markets for gold and silver such as COMEX. In addition, the State Treasury is not authorized, or inclined, to invest in gold. Given the factors that make storing precious metals in Tennessee less attractive to both institutional and individual investors than storing it in other states, and the fact that no institutional investment funds seem inclined, at this point, to buy or store gold in Tennessee, there does not appear to be enough demand for a state gold depository to be viable.

***Beyond its effect on the prospects of a depository, stakeholders say that Tennessee’s sales tax on precious metals has other negative consequences for the state.***

Stakeholders say that the sales tax makes Tennesseans, regardless of their storage plans, less likely to purchase precious metals from in-state dealers. Stakeholders also say that the sales tax leads to less tourism dollars in Tennessee by discouraging coin shows from locating in the state, which if they did, could lead to increased sales of other merchandise that is subject to the sales tax and increased hotel tax revenue, potentially offsetting any decreases in state and local sales tax revenue from the exemption. The Tennessee Department of Tourist Development estimates that the average daily expenditures per traveler to a coin show would be \$132.40, including transportation, and some coin shows can attract as many as 10,000 attendees. Stakeholders also point out that Tennessee does not apply the sales tax to other types of investments like stocks and bonds.

Nevertheless, any sales tax exemption has the potential to decrease state and local revenue. The General Assembly has considered exemptions for precious metal coins and bullion in the past but has not adopted them because of concerns about how any exemptions erode the sales tax base that the state and local governments rely on for a large percentage of their revenue.

Delaying enacting a sales tax exemption for precious metal coins and bullion may help ensure that Tennessee does not lose any of the federal funds that it is set to receive through the American Rescue Plan Act. The act includes a provision that requires states to give back federal funds used for “a reduction in the net tax revenue.” If the General Assembly enacts a sales tax exemption that results in a reduction in the net tax revenue of the state before Tennessee spends all of the \$4 billion that it is set to receive through the Act, the state may have to give back some federal funds. In June 2021, Kentucky and Tennessee filed a lawsuit contesting the constitutionality of the provision (Kentucky et al v. Yellen). Although the district court ruled in favor of Kentucky and Tennessee, the decision could be appealed. The lawsuit was one of six filed by state attorneys general challenging the provision. Resolution of the lawsuits may provide clarity regarding the effect on federal funds for Tennessee were Tennessee to enact a sales tax exemption. But until then, enacting a sales tax exemption for precious metals may result in Tennessee giving back some federal funds. **For these reasons, the General Assembly could consider a sales tax exemption for precious metal coins and bullion if it becomes clear that the exemption will not violate the American Rescue Plan Act or once all the federal funds have been spent.**

Delaying enacting a sales tax exemption for precious metal coins and bullion may help ensure that Tennessee does not lose any of the federal funds that it is set to receive through the American Rescue Plan Act.

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## Analysis: A bullion<sup>1</sup> depository is not feasible in Tennessee, but the state should consider a sales tax exemption for precious metal coins and bullion.

Tennesseans purchase precious metals for a variety of reasons including coin collecting or as investments that they hope can be sold later at a higher price.<sup>2</sup> Some invest in gold and other tangible assets because they can also serve as a hedge against inflation,<sup>3</sup> which has become a concern for many as the economy recovers from the pandemic and recession.<sup>4</sup> Proponents say that investments in gold, which could be stored in a state-backed depository, could protect the State of Tennessee and its residents during severe economic downturns, natural disasters, and other catastrophes.<sup>5</sup> Still others want to use gold and silver as currency as was done for thousands of years—the US dollar had links to gold as recently as 1971.<sup>6</sup> Regardless of the reason, all buyers of precious metals need a way to store them. Options for storage include home safes, safe deposit boxes in a bank, and purpose-built depositories, which can offer additional services beyond storage.<sup>7</sup>

Home safes are the most accessible of all the storage options but can be expensive. Safes that are fireproof, waterproof, and too heavy to be carried away can cost hundreds or thousands of dollars.<sup>8</sup> Insuring precious metals kept in a home safe is expensive and subject to limits.<sup>9</sup> A “floater”—an insurance policy that covers movable personal property—may need to be added to a homeowners’ insurance policy to ensure adequate coverage.<sup>10</sup>

Safe deposit boxes in a bank are only accessible during bank hours but are more secure than home storage.<sup>11</sup> Customers pay an annual fee to rent the safe deposit box, but safe deposit boxes are not covered by the bank’s insurance policy or backed by the Federal Deposit Insurance Corporation, so customers must buy their own insurance to cover the contents of their safe deposit box.<sup>12</sup> However, because of the bank’s security, insuring gold

All buyers of precious metals need a way to store them. Options for storage include home safes, safe deposit boxes in a bank, and purpose-built depositories, which can offer additional services beyond storage.

<sup>1</sup> Black’s Law Dictionary states that “‘bullion’ encompasses, at the very least, any solid mass of uncoined gold or silver whatever its shape so long as its shape does not enhance its value.” For the purposes of this report, bullion also includes other precious metals (e.g. iridium, osmium, palladium, platinum, rhodium, and ruthenium).

<sup>2</sup> Interview with Pete Dodge, founder, Nashville Coin Gallery, on June 16, 2021; Wallace 2020; Commodities Futures Trading Commission 2021.

<sup>3</sup> Emmrich and McGroarty 2013.

<sup>4</sup> Sindreu 2021.

<sup>5</sup> Pullen, Benson, and Faff 2014.

<sup>6</sup> Hogan, Smith, and Aguiar-Hicks 2019.

<sup>7</sup> Alterman 2011; Braff 2020.

<sup>8</sup> The Safe House Company 2021.

<sup>9</sup> Braff 2020.

<sup>10</sup> Kagan 2020. Investopedia defines floater insurance as “a type of insurance policy that covers property that is easily movable and provides additional coverage over what normal insurance policies do not.”

<sup>11</sup> Carrns 2018.

<sup>12</sup> Egan and Denise 2021; Carrns 2018.

There are currently no public or private depositories in Tennessee, so Tennessee residents desiring to store precious metals in a depository must do so out of state.

stored in a safe deposit box is generally cheaper than insurance for home storage.<sup>13</sup>

Another precious metal storage option is a purpose-built depository, which can offer additional services beyond storage.<sup>14</sup> Although a depository, depending on its location, could be even less accessible than a safe deposit box, it would offer the highest level of security because of required design and security features that are required by depository insurers. Because of the heightened security, insuring the precious metals is cheaper than for other options and is typically paid for by the depository on behalf of its depositors.<sup>15</sup> Some depositories provide additional services including facilitating transactions between customers based on the value of gold on deposit, and proponents of a state depository say that a state depository could serve as a first step towards the state creating an alternate currency.<sup>16</sup> And for those wanting to invest in gold as part of an individual retirement account (IRA), the gold must be stored in a qualified bullion depository.<sup>17</sup> There are currently no public or private depositories in Tennessee, so Tennessee residents desiring to store precious metals in a depository must do so out of state. See table 1.<sup>18</sup>

**Table 1. Options for Storing Precious Metals (Bullion, Coins, or Jewelry)**

Option	Storage Cost	Insurance Cost and Coverage
Home Safe	Approx. \$100 to \$10,000 depending on size and quality of safe	Homeowners' insurance may provide some coverage; however, coverage may be limited by a category limit, for instance, \$200; a floater may be required. Cost of floater is approximately 1-2% of the value insured.
Safe Deposit Box	\$42 to \$300 per year, depending on bank and size of box	Individual may purchase insurance for approx. 0.2% to 0.5% of the value insured, up to \$500,000.
Depository	0.25% to 1.5% of deposit value per year	Yes. Insurance is provided by the depository and is included in the cost (no coverage limit).

Source: The Safe House Company 2021; Moon 2020; Safe Deposit Box Insurance Coverage, LLC 2021; TACIR staff survey of depository fee schedules (see appendix B).

<sup>13</sup> Safe Deposit Box Insurance Coverage, LLC 2021; Carrns 2018.

<sup>14</sup> Delaware Depository 2021a; United Precious Metals Association 2021a.

<sup>15</sup> Telephone interviews with Texas Bullion Depository, Brinks Company, and Delaware Depository on July 6, 2021.

<sup>16</sup> Murphy 2015; Mosher 2017; Eaton 2018; interview with Representative Hulsey and Senator Rose on May 13, 2021.

<sup>17</sup> Interview with Hugh Bromma, chief executive officer and founder, The Entrust Group, on June 22, 2021; The Entrust Group 2017; The Entrust Group 2018; Lander 2021.

<sup>18</sup> Interview with Pete Dodge, founder, Nashville Coin Gallery, on June 16, 2021; interview with Hugh Bromma, chief executive officer and founder, The Entrust Group, on June 22, 2021.

Public Chapter 585, Acts of 2021, directs TACIR to “study the feasibility of creating a state gold depository, including whether other states or jurisdictions have created one.” The first and only state bullion depository in the United States is the Texas Bullion Depository, a public-private partnership that is privately-operated with management oversight provided by the Texas Comptroller of Public Accounts.<sup>19</sup> In addition, there are at least a dozen private depositories located throughout the United States. Studying these, the Commission finds that because of high costs,<sup>20</sup> a lack of demonstrated demand, and the fact that precious metals are not exempt from sales taxes in Tennessee,<sup>21</sup> a state depository is not feasible. While exempting precious metals from the sales tax would not in itself make a depository feasible, there are other reasons for the state to consider this option.

**Proponents say that a state bullion depository could provide services in addition to storage, serve as a first step towards creating a state-backed currency, and create a revenue stream for the state.**

Proponents of a Tennessee depository say it could provide services in addition to storage, such as facilitating in-kind transactions in precious metals between account holders.<sup>22</sup> This includes facilitating the direct exchange of precious metals for goods and services without having to convert the precious metals into cash. Some depositories in other states have offered this service. The Delaware Depository and the United Precious Metals Association in Utah, for instance, facilitate transfers between account holders.<sup>23</sup>

Proponents of a state depository contend that a state depository could also serve as a first step towards the state creating a state-backed currency, backed by the bullion held in the state depository, but a state attempting to coin its own currency could face a constitutional challenge, as Article I, Section 10 of the US Constitution states that “no State shall . . . coin Money.” The treasurer has also pointed out that the Treasury can’t issue a currency based on other people’s gold, so the state would have to own the gold, and to match the amount of US currency currently in circulation in Tennessee, the state would need to own and hold reserves in the state depository worth hundreds of billions of dollars.<sup>24</sup> Senate Joint Resolution 98 by Senator Ketron in the 107<sup>th</sup> General Assembly would have created a special joint committee to study the feasibility of Tennessee adopting an

Texas has the first and only state bullion depository in the US. It is operated as a public-private partnership.

<sup>19</sup> Texas Bullion Depository 2021a.

<sup>20</sup> Interview with Delaware Depository on June 25, 2021.

<sup>21</sup> Tennessee Code Annotated, Section 67-6-101 et seq.

<sup>22</sup> Delaware Depository 2021a; United Precious Metals Association 2021a.

<sup>23</sup> Delaware Depository 2021b; United Precious Metals Association 2021b.

<sup>24</sup> Interview with Tennessee Department of Treasury on June 15, 2021.

Although the US Constitution says that no state shall coin money, the US government, along with many other foreign governments, does produce precious metals coins, and several states have moved to recognize some types of these national coins as legal tender in their states. Utah (2011) and Oklahoma (2014) have recognized gold and silver US coins as legal tender, Arizona (2017) has recognized all precious metals coins issued by the US mint (gold, silver, platinum, and palladium) as legal tender, and Wyoming (2018) has recognized gold and silver coins issued by both the US and foreign governments as legal tender.\* In each state, these new laws reduced tax liability for either the sale of the precious metal coins that qualify as legal tender or the capital gains made from an exchange between different kinds of legal tender. None of these states, however, as a part of these legislative acts, compel a person or business to accept precious metals coins as payment, and although these states can seize these coins, or any other property, in-lieu of cash payments for taxes, none of these states have said that they accept precious metal coins of any kind as an alternate currency option for state tax payments.\*\* In Tennessee, Senate Bill 978 by Senator Southerland and House Bill 1323 by Representative Eldridge (111<sup>th</sup> General Assembly) would have provided that certain gold and silver coins and certain refined gold or silver bullion are legal tender of this state if issued by the US government or if a court declares that states may declare such as legal tender, but the bill did not pass.

\* Utah House Bill 317 (2011), Oklahoma Senate Bill 862 (2014), Arizona House Bill 2014 (2017), and Wyoming House Bill 103 (2018). Wyoming allows for specie coins from other countries as well (see Wyoming Statutes Annotated, Section 9-4-1303).

\*\* TACIR staff telephone calls to state departments of revenue.

alternative currency in the event of a breakdown of the Federal Reserve System, but the resolution did not pass.

And proponents of a state depository say that a state-backed, in-state depository could create a revenue source for the state, primarily through storage fees.<sup>25</sup> The state could own and operate the depository itself, or it could enter into a public-private partnership. Although there are many ways to contract with a private-partner, the State of Texas entered into a net income-sharing agreement with its private partner. To date, the depository has not generated enough revenue to cover costs—net income is revenue minus costs—to share with the State of Texas.<sup>26</sup>

### ***Building and operating a state depository would be costly.***

According to depository officials in other states, building a new depository would have substantial up-front costs, potentially costing millions or tens of millions of dollars.<sup>27</sup> The cost is high because a depository requires specialized design features, like high-quality vault doors.<sup>28</sup> Vault dealers recommend that gold vaults have vault doors and modular panels that can withstand an “attack by common mechanical tools, electric tools, cutting torches, or any combination of these means” for at least two hours—also known as a Class 3 vault.<sup>29</sup> Other possible means of penetrating a vault include burning bars (i.e. thermal lances) and explosives.<sup>30</sup> In addition to a secure vault, other depository security features include full-time surveillance, and because sewer pipes could be a point of entry, the pipes would have to be too small to crawl through.<sup>31</sup>

<sup>25</sup> Interview with Representative Hulsey and Senator Rose on May 13, 2021. “Revenue” is the income generated by the sale of goods or services. Net income is the amount that remains after accounting for costs related to that revenue.

<sup>26</sup> Interview with Texas Bullion Depository on June 2, 2021.

<sup>27</sup> Interview with Delaware Depository on June 25, 2021; interview with JP Cortez, policy director, and Stefan Gleason, director, Sound Money Defense League on July 29, 2021.

<sup>28</sup> Interview with Delaware Depository on June 25, 2021; interview with JP Cortez, policy director, and Stefan Gleason, director, Sound Money Defense League on July 29, 2021.

<sup>29</sup> Email from Johanna Chapman, sales manager, International Vault, on July 2, 2021; Underwriters Laboratory 2017.

<sup>30</sup> Ibid.

<sup>31</sup> Interview with Delaware Depository on June 25, 2021.

Many of these security features are required for insurance purposes, according to a Lloyd's of London broker with experience insuring depositories.<sup>32</sup> Lloyd's of London provides unique and specialized insurance, and their brokers appear to be the only insurance providers for bullion depositories.<sup>33</sup> Before they would insure a depository, they would require external alarm monitoring, rapid response time, recording and backing up everything on close-circuit television, having a back-up power supply, and measures to prevent unauthorized access into the security system.<sup>34</sup> Measures would also need to be taken to prevent counterfeiting, money laundering, ransomware attacks, and other criminal activity, which is not without precedent.<sup>35</sup>

For instance, an estimated \$30 million in cash, metal bullion and valuable coins vanished from a Bullion Direct vault in Austin, Texas in 2016.<sup>36</sup> In a separate incident, a business owner of a South Florida company that “transported gold, cash, and other valuables by armored truck, both domestically and internationally” was charged in 2021 with “facilitating a \$140 million transnational illicit gold smuggling operation aimed at laundering cash with alleged ties to criminal activity.”<sup>37</sup> Tennessee has joined other states and the federal government to combat crimes involving precious metals. In 2021, the Tennessee Department of Commerce and Insurance’s Securities Division, other state regulators, and the Commodity Futures Trading Commission accused Metals.com, Tower Equity, Chase Metals, Barrick Capital, and other associated parties of perpetrating a fraudulent precious metals investment scheme believed to involve approximately 1,600 investors and more than \$185 million in customer funds.<sup>38</sup>

In a state-run depository, the state would cover all the costs of securing and operating the depository.<sup>39</sup> Alternatively, the state could enter into a partnership with a private entity that would cover some of the cost, as was done in Texas, but the state would still need to ensure adequate administration and oversight.<sup>40</sup> The State of Texas assigned existing staff to these duties, including a part-time director and attorney along with full-time auditing staff.<sup>41</sup> The state also hired a former SWAT officer as director

The state could enter into a partnership with a private entity that would cover some of the cost of a depository, as was done in Texas, but the state would need to ensure adequate administration and oversight.

<sup>32</sup> Interview with Price Forbes and Partners Ltd on July 19, 2021.

<sup>33</sup> Interview with Matt Ferris, president, Lone State Tangible Assets, on June 10, 2021.

<sup>34</sup> Interview with Price Forbes and Partners Ltd on July 19, 2021.

<sup>35</sup> Interview with Matt Ferris, president, Lone State Tangible Assets, on June 10, 2021; Texas Bullion Depository 2016.

<sup>36</sup> Dexheimer 2018.

<sup>37</sup> United States Department of Justice 2021.

<sup>38</sup> Tennessee Department of Commerce 2021.

<sup>39</sup> Engel, Fischer, and Galetovic 2021.

<sup>40</sup> Agreement for Services Related to the Texas Bullion Depository between Comptroller of Public Accounts and Lone Star Tangible Assets, LP.

<sup>41</sup> Email from Jaime Resendez, compliance analyst, Texas Comptroller of Public Accounts, on June 21, 2021.



In Texas, the state entered into a public-private partnership with the goal of having the private partner cover the depository's up-front cost. But the State of Texas and local governments in Texas do bear some costs.

of security.<sup>42</sup> Although state oversight would be an attractive feature for some depositors,<sup>43</sup> it could cost the state a few hundred thousand dollars per year or more.<sup>44</sup> But the private partner, Lone Star Tangible Assets, has about 165 employees,<sup>45</sup> many of whom do not operate or secure the Texas Bullion Depository. Rather, they work in other related businesses, primarily precious metals sales.<sup>46</sup>

In Texas, the state entered into a public-private partnership with the goal of having the private partner cover the depository's up-front cost.<sup>47</sup> But the State of Texas and local governments in Texas do bear some costs. For fiscal year 2019-20 through fiscal year 2022-23, the Texas Legislature has appropriated \$175,000 per year for the Texas Bullion Depository.<sup>48</sup> Recently, the state authorized a \$20 million bond to buy the depository and lease it back to the private partner.<sup>49</sup> The private partner was also given a \$4 million incentive package by the city in Texas where they agreed to locate the depository.<sup>50</sup> The city of Leander provided \$1.5 million in reimbursements for infrastructure and up to \$2.5 million in tax rebates over 10 years.<sup>51</sup> Williamson County, Texas, also provided a 5-year rebate of 50% of real property tax, and a 100% rebate of personal property tax.<sup>52</sup>

Some stakeholders have suggested that, instead of constructing a depository in Tennessee, an existing bank vault might be used.<sup>53</sup> But banks have not expressed much interest in this idea, and some depositors would see having their deposits inside the banking system as a negative because, for example, the federal government could seize the gold — something it did during the 1930s.<sup>54</sup>

According to Tennessee Department of Treasury officials, regardless of whether the state depository is state-run or a public-private partnership, the state would bear reputational risk of ensuring the viability of the depository.<sup>55</sup> One type of reputational risk is headline risk — the risk that a

<sup>42</sup> Texas Comptroller of Public Accounts 2017.

<sup>43</sup> Interview with JT Dominick, managing partner, 9dots Capital, on May 21, 2021.

<sup>44</sup> Texas Senate Bill 1 (2021), Section A.1.13.; Texas House Bill 1 (2019), Section A.1.13.

<sup>45</sup> Interview with Matt Ferris, president, Lone Star Tangible Assets, on June 10, 2021.

<sup>46</sup> Ibid.

<sup>47</sup> Interview with Texas Bullion Depository on June 2, 2021; Mulverhill 2017.

<sup>48</sup> Texas Senate Bill 1 (2021), Section A.1.13.; Texas House Bill 1 (2019), Section A.1.13. The Texas Legislature does biennial budgeting once every two years and appropriated \$350,000 for both fiscal year 2019-20 and fiscal year 2020-21 and \$350,000 for fiscal year 2021-22 and fiscal year 2022-23 (an average of \$175,000 per year).

<sup>49</sup> Texas Senate Bill 2230 (2021); Herman 2021.

<sup>50</sup> Chamber of Commerce 2021.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Interview with Tennessee Department of Treasury on June 15, 2021; Representative Hulsey, House Finance Ways and Means Subcommittee on March 22, 2017 (House Bill 777).

<sup>54</sup> Interview with Amy Heaslet, general counsel, Tennessee Bankers Association, on June 2, 2021; interview with Tennessee Department of Treasury on June 15, 2021; and Executive Order 6102 of April 5, 1933.

<sup>55</sup> Interview with Tennessee Department of Treasury on June 15, 2021.

newspaper headline about the depository reflects poorly on the state. For a public-private partnership in particular, if the partner fails to perform per the agreement, the state may have to either temporarily manage the depository or begin the process of contracting with another partner.<sup>56</sup>

### ***Tennessee would face challenges for attracting enough deposits to make a depository financially viable.***

Revenue sources from a depository include storage fees and fees for assisting with transactions, account set-up, withdrawal, customer room usage, transporting the precious metals to and from the depository, in-person pick-up, and other fees. Of these, depository officials say that storage fees are most important, and the value of the deposits determines much of a depository's revenue. They say that to make enough revenue from storage fees to cover costs, a depository would probably need a minimum of approximately \$1 billion in deposits, and without a large initial deposit, it could take many years to reach that amount.<sup>57</sup> If, for instance, storage fees were set to 0.5%, \$1 billion would generate \$5 million in revenue per year. Storage fees are typically set to give discounts as deposits increase in value. For example, a \$5,000 deposit might be charged 0.5%, while a \$50 million deposit is charged 0.25%. See appendix B for examples of depository fee schedules.

### **The deposits held by the Texas Bullion Depository are less than what was anticipated and are currently not enough for the depository to break even.**

Officials of the Texas Bullion Depository say that the value of its deposits has increased to as much as \$130 million, but that is not enough for the depository to break even.<sup>58</sup> Initially, Texas officials anticipated that the University of Texas/Texas A&M Investment Management Company (UTIMCO), which oversees investments for The University of Texas and Texas A&M Systems, would deposit its \$763 million in gold in the Texas Bullion Depository.<sup>59</sup> Instead, believing that systemic risks were falling, UTIMCO sold the gold over a multi-year period, selling the last of the gold in August 2020.<sup>60</sup> Before they sold the gold, investment managers at UTIMCO said that they wouldn't move the endowment's gold from New York City to Texas unless storage was cheaper and unless the Texas Bullion Depository became a member of COMEX—a market for gold and other

Depository officials say that to make enough revenue from storage fees to cover costs, a depository would probably need a minimum of approximately \$1 billion in deposits, and without a large initial deposit, it could take many years to reach that amount.

<sup>56</sup> Interview with Tennessee Comptroller of the Treasury on June 1, 2021; and interview with Tennessee Department of Financial Institutions on June 4, 2021.

<sup>57</sup> Interview with JP Cortez, policy director, and Stefan Gleason, director, Sound Money Defense League on July 29, 2021.

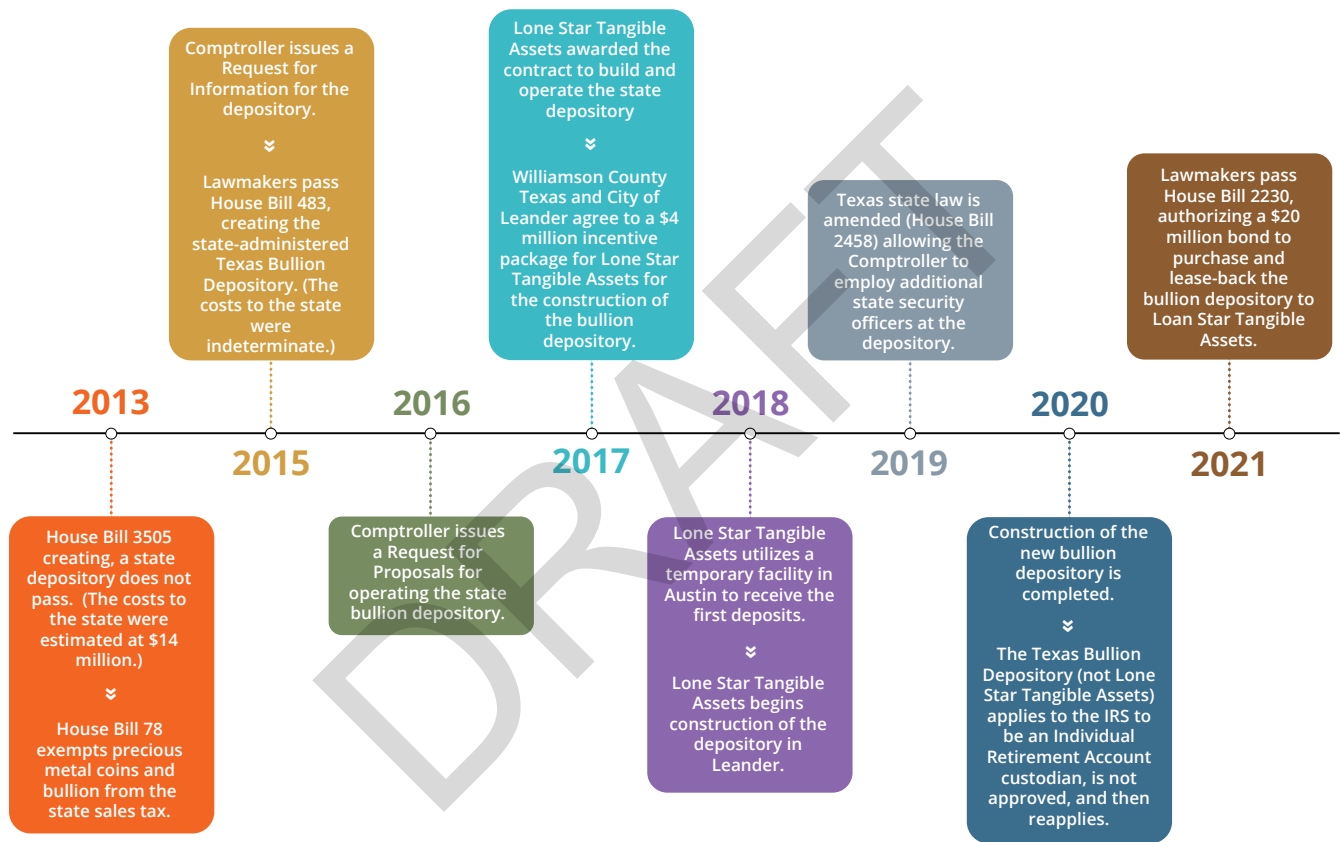
<sup>58</sup> Interview with Matt Ferris, president, Lone State Tangible Assets, on June 10, 2021; Proposals and responses to RFP218h for Services Related to the Texas Bullion Depository 2016.

<sup>59</sup> Email from The University of Texas/Texas A&M Investment Management Company on May 27, 2021.

<sup>60</sup> Ibid.

precious metals. COMEX provides liquidity (the ability to buy or sell) and facilitates derivatives (futures and options) trading that could be a source of revenue for a depository. The Texas Bullion Depository applied to become a member of COMEX but has not been approved, in part because it is more than 150 miles from New York City—the maximum distance for a depository to be considered for membership under COMEX’s current rules.<sup>61</sup> See figure 1.

Figure 1. Timeline of Texas Bullion Depository



Source: Interview with Texas Bullion Depository on June 2, 2021; interview with Matt Ferris, President, Lone State Tangible Assets, on June 10, 2021; Austin Chamber of Commerce 2021; Texas House Bill 3505 (2013); Texas House Bill 78 (2013); Texas House Bill 483 (2015); Texas House Bill 2458 (2019); Texas House Bill 2230 (2021).

**No managers of institutional investment funds in Tennessee seem inclined, at this point, to buy or store gold.**

For a state depository in Tennessee to reach enough in deposits to be viable, it would probably need deposits from both individual investors and **managers of institutional investment funds**.<sup>62</sup> But it seems to be rare

<sup>61</sup> Interview with Joann Arena, senior director, Research and Product Development, CME Group, on June 18, 2021.  
<sup>62</sup> Interview with Texas Bullion Depository on June 2, 2021.



for managers of large investment funds like university endowments to invest in gold.<sup>63</sup> Even if they do, there are several alternatives to buying precious metals for storage in a state depository in Tennessee, including

- shares of exchange-traded funds that purchase and store precious metals (e.g. SPDR Gold Shares, ticker symbol GLD,<sup>64</sup> and iShares Gold Trust, ticker symbol IAU),
- stocks of precious metals mining companies, and
- precious metals derivatives (i.e. futures and options).<sup>65</sup>

Endowments of universities in Tennessee—public and private—totaled \$10.4 billion in fiscal year 2019-20 (see table 2).<sup>66</sup>

**Table 2. Endowments of Tennessee Universities  
Public and Private  
Fiscal Year 2019-20**

Endowments of Tennessee Universities	Endowment Funds Fiscal Year 2019-20
Vanderbilt	\$ 6,917,371,000
University of Tennessee	1,335,066,000
The University of the South	419,515,000
Rhodes College	341,178,000
Belmont University	260,087,000
The University of Memphis Foundation	220,771,000
Meharry Medical College	156,719,000
University of Chattanooga Foundation	147,097,000
East Tennessee State University	130,080,000
Middle Tennessee State University Foundation	108,889,000
Lipscomb University	81,026,000
Tennessee Technological University Foundation	74,110,000
Tennessee State University Foundation	63,020,000
Freed-Hardeman University	62,428,000
Southern Adventist University	49,005,000
Pellissippi State Community College Foundation	11,875,000
<b>TOTAL</b>	<b>\$ 10,378,237,000</b>

Source: National Association of College and University Business Officers 2020.

The University of Tennessee endowment, which manages \$1.3 billion, does not currently invest in gold.<sup>67</sup> If a university endowment did invest in gold, it may want to store it at a depository that is part of COMEX to take advantage of the liquidity and other financial options that COMEX

It seems to be rare for managers of large investment funds like university endowments to invest in gold.

<sup>63</sup> Christensen 2014; Gleason 2020.

<sup>64</sup> SPDR (pronounced “spider”) is a family of exchange-traded funds managed by State Street Global Advisors.

<sup>65</sup> Emmrich and McGroarty 2013; COMEX 2021; interview with Tennessee Department of Treasury on June 14, 2021.

<sup>66</sup> National Association of College and University Business Officers 2020.

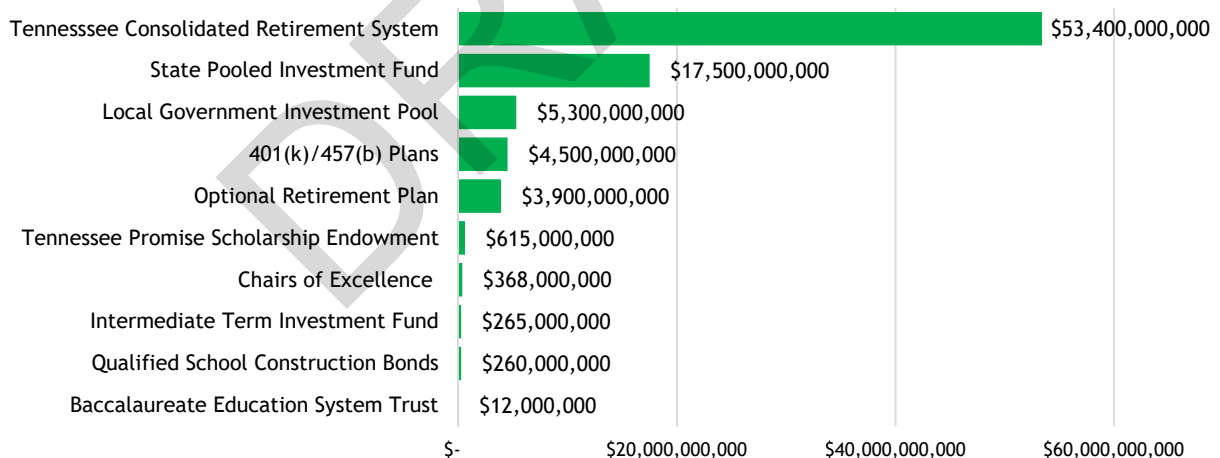
<sup>67</sup> National Association of College and University Business Officers 2020; interview with Rip Mecherle, chief investment officer, University of Tennessee Endowment, on May 27, 2021.

Tennessee state law does not authorize the Treasury to invest in gold. The treasurer said that it would take an appropriation by the General Assembly for the Treasury to invest in gold.

provides, as was the case with the University of Texas and Texas A&M endowments.<sup>68</sup> And as in Texas, a gold depository in Tennessee would be too far from New York City to be part of COMEX.

The State Treasury of Tennessee manages \$85.8 billion in investments (see figure 2); however, as is the case in all 50 states,<sup>69</sup> Tennessee state law does not authorize the Treasury to invest in gold.<sup>70</sup> Moreover, Tennessee’s treasury funds have boards of trustees whose policies also do not authorize the Treasury to invest any of its funds in gold.<sup>71</sup> The treasurer said that it would take an appropriation by the General Assembly for the Treasury to invest in gold.<sup>72</sup> The appropriation may even need to specify that the Treasury store it in Tennessee because otherwise investment managers could decide to store it elsewhere. In addition to not being authorized to do so, state treasuries do not invest in gold because holding gold does not generate any revenue; you’d have to sell some of the gold to get the revenue to pay pensioners, for instance.<sup>73</sup> As introduced, Senate Bill 973 by Senator Niceley and House Bill 777 by Representative Hulsey (110<sup>th</sup> General Assembly), would have required the state treasurer to invest 40% of the amounts in the reserve for revenue fluctuations (i.e. the rainy-day fund) in gold bullion or other precious metal bullion, but the bill did not pass. The rainy-day fund totaled \$1.45 billion in 2021, and 40% of that

Figure 2. Tennessee Treasury Funds  
Fiscal Year 2019-20



Source: Tennessee Department of Treasury 2021.

<sup>68</sup> Victoria Advocate Editorial Board 2018.

<sup>69</sup> Review of 50 states’ laws by National Conference of State Legislatures and National Association of State Treasurers.

<sup>70</sup> Tennessee Code Annotated, Sections 8-37-104 and 9-4-602.

<sup>71</sup> Treasurer Lillard, House Finance Ways and Means Subcommittee on March 22, 2017.

<sup>72</sup> Interview with Tennessee Department of Treasury on June 14, 2021; Treasurer Lillard, House Finance Ways and Means Subcommittee on March 22, 2017 (House Bill 777).

<sup>73</sup> Interview with Tennessee Department of Treasury on June 14, 2021; Treasurer Lillard, House Finance Ways and Means Subcommittee on March 22, 2017 (House Bill 777).

would have been \$580 million. Proponents of a state depository say that it would improve the state's solvency,<sup>74</sup> but the State of Tennessee has a AAA bond rating and has won awards for strong financial management.<sup>75</sup>

Although individual investors and collectors can currently store their precious metals at home, in a safe deposit box, or in an out-of-state depository, some individuals may want to store their precious metals in a depository located in Tennessee.<sup>76</sup> The fact that there is no private depository in Tennessee to meet this demand suggests the demand is not high enough to support one, which raises the question as to whether there are other factors that make Tennessee a less attractive location for a depository.<sup>77</sup>

**Stakeholders say that Tennessee's sales tax makes buying and storing gold in Tennessee less attractive than in states that do not tax the sales.**

Anyone buying and storing precious metals in Tennessee owes Tennessee's sales tax, and state and local rates combined can be as high as 9.75%.<sup>78</sup> States' authority to enforce collections was expanded by the 2018 US Supreme Court decision *South Dakota v. Wayfair*, which enabled states to require out-of-state sellers to collect and remit sales tax.<sup>79</sup> Before *Wayfair*, Tennessee's could buy from out-of-state dealers with no physical presence in the state who were not required to collect and remit Tennessee's sales tax, even if they shipped the metal to Tennessee. After *Wayfair*, sellers shipping the metal to Tennessee are required to collect and remit sales tax:

- Public Chapter 759 (111<sup>th</sup> General Assembly) requires sellers without a physical presence in Tennessee but with greater than \$100,000 in sales to Tennessee to collect and remit sales tax beginning October 1, 2020.
- Public Chapter 646 (111<sup>th</sup> General Assembly), also effective October 1, 2020, requires marketplace facilitators (e.g. Amazon, eBay, and Etsy) to collect and remit Tennessee sales tax on sales made through its marketplace.

Because of the requirement to collect and remit sales tax, some out-of-state dealers and depositories instruct their customers to avoid paying sales tax by storing the precious metals in a state that does not tax the sales. For example, the Texas Bullion Depository website states that "by buying and

Tennessee's sales tax is one factor that makes Tennessee a less attractive location for a depository.

<sup>74</sup> Representative Hulsey, House Finance Ways and Means Subcommittee on March 22, 2017 (House Bill 777).

<sup>75</sup> Fitch 2021; Tennessee Department of Finance and Administration 2021.

<sup>76</sup> Alterman 2011; Braff 2020; interview with Representative Hulsey and Senator Rose on May 13, 2021.

<sup>77</sup> Interview with Tennessee Department of Treasury on June 15, 2021.

<sup>78</sup> Tennessee Code Annotated, Sections 67-6-202 and 67-6-702.

<sup>79</sup> *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

Tennessee is one of eight states—of the 45 states with a sales tax—that does not exempt any of the sales of precious metals coins and bullion.

keeping their precious metals in Texas, investors can avoid paying a sales tax on the purchases.”<sup>80</sup>

Stakeholders say that investors are less likely to buy precious metals in states that tax the sales than in states that do not because the price of gold would have to increase enough to offset the tax for them to break even.<sup>81</sup> They also point out that Tennessee does not apply the sales tax to other types of investments like stocks and bonds.<sup>82</sup> Stakeholders say that Tennessee’s sales tax on precious metal coins and bullion is one factor that stands in the way of the viability of a depository in Tennessee because Tennesseans can avoid paying sales tax by buying and storing precious metals in states that do not tax the sales.<sup>83</sup> But a sales tax exemption on its own may not generate enough demand to cover the high cost of building and operating a depository.

Tennessee is one of only eight states<sup>84</sup>—of the 45 states with a sales tax—that does not exempt any of the sales of precious metals coins and bullion.<sup>85</sup> Of the 37 states with an exemption, 26 exempt all sales of precious metal coins and bullion.<sup>86</sup> The other 11 states have exemptions that tend to target exempting sales of precious metals bought as an investment while keeping the sales tax for other purchases.<sup>87</sup> Of the 11 states with a partial exemption, seven exempt sales greater than a dollar threshold that is likely intended to act as a proxy for investments.<sup>88</sup> California exempts single transactions that are greater than \$1,500 (i.e. the threshold is \$1,500).<sup>89</sup> For five states, the threshold is \$1,000, and Florida’s threshold is \$500.<sup>90</sup> Tax administrators in these states say that the exemptions do not make administering the tax more difficult.<sup>91</sup>

Three states have partial exemptions but without a threshold. Minnesota exempts bullion but not coins.<sup>92</sup> New Jersey exempts gold and silver that is traded on a commodities market or other board of trade or exchange

<sup>80</sup> Texas Bullion Depository 2021b.

<sup>81</sup> Interview with Matt Ferris, president, Lone State Tangible Assets, on June 10, 2021.

<sup>82</sup> Tennessee Code Annotated, Section 67-6-101 et seq.

<sup>83</sup> Interview with David Crenshaw, executive director, National Coin and Bullion Association; Terry Hanlon, president, Dillon Gage Metals; and Terri Hewitt, director of sales, Dillon Gage Metals, on June 1, 2021; interview with Matt Ferris, president, Lone State Tangible Assets, on June 10, 2021; interview with Tennessee Department of Treasury on June 15, 2021.

<sup>84</sup> Hawaii, Kentucky, Maine, Mississippi, New Mexico, Tennessee, Vermont, and Wisconsin. See appendix C and Op. Att’y Gen. Tenn. 110 (Dec. 28, 2012).

<sup>85</sup> TACIR staff review of other states’ laws. See appendix C.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> California Revenue and Tax Code, Section 6355; 18 California Code of Regulations, Section 1599.

<sup>90</sup> Connecticut, Maryland, Massachusetts, New York, and Virginia. See appendix C. Florida Annotated Statutes, Sections 212.08(7)(ww) and 212.05(1)(j); Florida Administrative Code, Section 12A-1.0371.

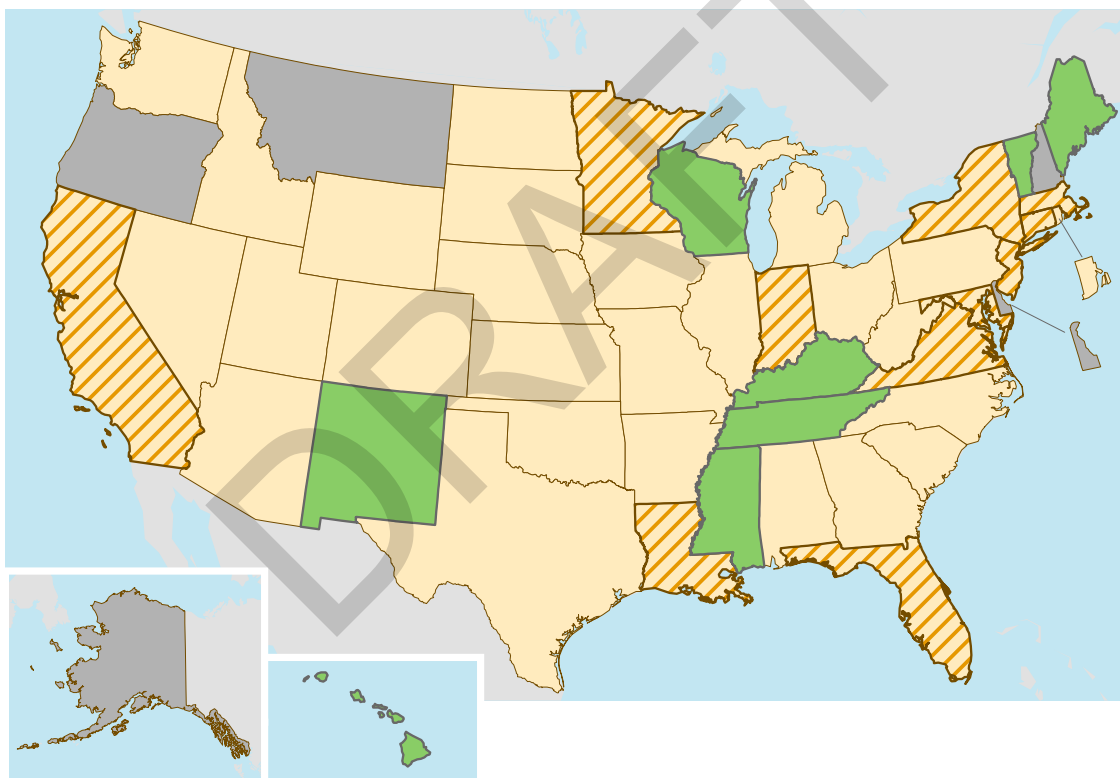
<sup>91</sup> Telephone interviews with staff of departments of revenue from other states.

<sup>92</sup> Minnesota Statute, Section 297A.67.34.





licensed by the Federal Commodity Futures Trading Commission,<sup>93</sup> and Indiana’s exemption is for individual retirement account (IRA) qualified bullion and coins.<sup>94</sup> Although most of the states with a partial exemption say that administration of the tax is not difficult, administering Indiana’s exemption has been challenging because in some cases, for two similar items, one is taxed, and one is not.<sup>95</sup>

Rather than exempt sales greater than a threshold as in the other states with a threshold, Louisiana exempts coin sales that are less than \$1,000 or that are purchased at a “multi-parish numismatic trade show.”<sup>96</sup> See map and appendix C. Two similar bills were introduced in Tennessee but did not pass. Senate Bill 1893 by Senator Gresham, House Bill 1915 by Representative Gant (110<sup>th</sup> General Assembly) and Senate Bill 333 by Senator Gresham, House Bill 212 by Representative Gant (111<sup>th</sup> General

Map. Sales Tax Exemptions for Precious Metal Coins and Bullion



**Sales Tax Exemptions for Precious Metals by State**

 State Has No Sales Tax (5)	 Coins and Bullion Exempted (26)
 No Exemption for Coin and Bullion (8)	 Partial Exemption (11)

Source: TACIR staff review of state laws (see appendix C).

<sup>93</sup> New Jersey Revised Statutes, Section 54:32B-8.32.

<sup>94</sup> Indiana Code, Section 6-2.5-5-47.

<sup>95</sup> Telephone interview with Collin Davis, director of tax guidance, Indiana Department of Revenue, on July 29, 2021.

<sup>96</sup> Louisiana Statute, Sections 47:302(AA)(32) and 47:302(BB). “Numismatic” is defined as “relating to or consisting of coins, paper currency, and medals.”

Assembly), would have exempted sales that are less than \$10,000 and the sale of numismatic coins at a national, statewide, or multi-county trade show.

The trend in recent years is that more states are exempting sales of precious metal coins and bullion. In the past 10 years, 12 states have added an exemption for at least some purchases. Eight of the 12 states exempted all sales of precious metal coins and bullion,<sup>97</sup> and the other four enacted partial exemptions.<sup>98</sup> Since 2011, 14 bills have been introduced in the Tennessee General Assembly to exempt sales of gold and silver bullion from state and local sales tax, but none of the bills passed (see table 3 and appendix D).

The trend in recent years is that more states are exempting sales of precious metal coins and bullion.

**Table 3. Precious Metal Coins and Bullion Sales Tax Exemption Bills, 107th to 112th General Assemblies**

General Assembly	House Bill*	House Sponsor	Senate Bill*	Senate Sponsor	Fiscal Note	
					Decrease in State Revenue	Decrease in Local Revenue
107	469	Carr J	612	Campfield	\$3,282,671	\$1,172,383
107	2677	Carr J	2574	Campfield	\$2,862,600	\$1,209,400
107	3202	Niceley	3361	Campfield	\$2,983,200	\$1,260,300
108	104	Carr J	none	none	\$2,891,900	\$1,180,100
108	111	Carr J	301	Niceley	\$3,098,300	\$1,264,300
108	120	Carr D	469	Niceley	\$3,229,100	\$1,317,700
109	1518	Terry	1662	Tracy	\$2,023,000	\$825,500
109	1627	Hulsey	1610	Niceley	\$2,488,700	\$1,015,600
110	342	Hulsey	350	Niceley	\$360,800*	\$117,800*
110	1008	Holt	666	Roberts	\$305,900	\$99,600
110	1915	Gant	1893	Gresham	\$360,800	\$117,800
111	212	Gant	333	Gresham	none	none
111	992	Gant	457	Stevens	\$360,800	\$117,800
112	514	Gant	870	Stevens	\$360,800	\$117,800

Source: Tennessee General Assembly.

\*Starting in the 110th General Assembly (2017), Fiscal Review began using a 2016 survey by the Industry Council for Tangible Assets as part of its calculations for fiscal notes for bills that exempt precious metals from sales tax, resulting in lower estimates for decreases in state and local revenue.

Note: See appendix D for a description of the bills.

Fiscal Review has worked to be more precise in their estimates of the effects of sales tax exemptions for precious metal sales on state and local sales tax revenue. Before the 110<sup>th</sup> General Assembly, without Tennessee specific data, Fiscal Review calculated fiscal notes based on annual US Mint sales of bullion coins and numismatic legal tender. The Industry Council for Tangible Assets (now known as the National Coin and Bullion Association)

<sup>97</sup> Alabama, Arkansas, Kansas, Nebraska, North Carolina, Ohio, West Virginia, and Wyoming. See appendix C.

<sup>98</sup> Virginia, Indiana, Louisiana, and Minnesota. See appendix C.



provided Fiscal Review with Tennessee, Fiscal Review combined this data with relevant sales tax collection data from the Department of Revenue, resulting in lower estimates of the decreases in state and local sales tax revenue that would occur if the proposed legislation were passed.

Of the 14 bills, 11 would have exempted both coins and bullion. House Bill 104 by Representative Joe Carr (108<sup>th</sup> General Assembly) and House Bill 1518 by Representative Terry, Senate Bill 1662 by Senator Tracy (109<sup>th</sup> General Assembly), would have exempted bullion but not coins. House Bill 111 by Representative Joe Carr, Senate Bill 301 by Senator Niceley (108<sup>th</sup> General Assembly) would have exempted coins but not bullion.

### Which precious metals do states exempt from the sales tax?

States with a sales tax exemption for precious metal coins and bullion vary by the types of metals included in the exemption. Of the 37 states with an exemption, 33 states exempt gold and silver,<sup>99</sup> 27 states exempt platinum, 18 states exempt palladium, five states exempt rhodium,<sup>100</sup> Idaho and Rhode Island exempt chromium, and New York exempts iridium and ruthenium. Another four states do not specify which precious metals are exempted.<sup>101</sup> Of the 14 sales tax exemption bills introduced in Tennessee from the 107<sup>th</sup> to the 112<sup>th</sup> General Assemblies, all 14 would have exempted gold and silver. Nine of the bills would have also exempted platinum, including three that would have exempted palladium as well.

Precious metals are sometimes mixed together to give them desirable qualities such as hardness. Of the nine states that exempt combinations of exempted precious metals, eight states exempt both bullion and coins,<sup>102</sup> and one state (Kansas) exempts combinations for bullion but not coins.

Definitions for what is considered a precious metal vary. The federal government and states have their own definitions for tax and other purposes. The federal regulation that addresses rules for dealers in precious metals defines precious metals as “gold, iridium, osmium, palladium, platinum, rhodium, ruthenium, or silver, having a level of purity of 500 or more parts per thousand; and an alloy containing 500 or more parts per thousand, in the aggregate, of two or more of the metals.”<sup>103</sup> Although Tennessee state law does not include a definition of precious metals, under definitions of kinds of insurance within the Tennessee Code Annotated it does define property insurance as “insurance against loss of or damage to . . . gold,

States with a sales tax exemption for precious metal coins and bullion vary by the types of metals included in the exemption. Also, definitions for what is considered a precious metal vary.

<sup>99</sup> Illinois exempts gold and silver coins but does not specify the precious metals that are exempted for bullion. See 35 Illinois Compiled Statutes 120/2-5(18); Illinois Administrative Code, Section 130.120aa.

<sup>100</sup> Arizona, Idaho, New York, Rhode Island, and Washington. See appendix C.

<sup>101</sup> Maryland, Nevada, North Carolina, and North Dakota. See appendix C.

<sup>102</sup> Alabama, Florida, Georgia, Iowa, Nebraska, South Carolina, South Dakota, and Virginia. See appendix C.

<sup>103</sup> 31 Code of Federal Regulations Section 1027.100(d).

Stakeholders say that a sales tax exemption could make it more likely that Tennesseans would purchase precious metals from in-state rather than out-of-state dealers.

Proponents of the sales tax exemption say it would lead to more tourism dollars in Tennessee by attracting coin shows.

silver and other precious metals.”<sup>104</sup> COMEX facilitates trading of gold, silver, platinum, and palladium.

### What are the other ways that states exempt precious metals from sales tax?

States have other criteria for applying sales tax exemptions for precious metals besides the type of metal. Eight states exempt precious metals that are used as a medium of exchange.<sup>105</sup> For precious metal sales in Nevada to be exempt, bullion cannot be sold for a premium and coins cannot be sold for more than 50% greater than their face value.<sup>106</sup> Of the 14 sales tax exemption bills introduced in Tennessee from the 107<sup>th</sup> to the 112<sup>th</sup> General Assemblies, eight would have exempted precious metals used as a medium of exchange.<sup>107</sup>

Some states also specify certain processes or uses that will prevent a precious metal from being exempted. For example, Massachusetts does not exempt “precious metal that has been processed or manufactured for industrial, professional, or artistic uses”<sup>108</sup> Similarly, Oklahoma does not exempt “fabricated metals that have been processed or manufactured for artistic use or as jewelry” or “other accessory items such as belt buckles and money clips.”<sup>109</sup>

### What would be the effect of a sales tax exemption for precious metal coins and bullion?

Stakeholders say that a sales tax exemption could make it more likely that Tennesseans would purchase precious metals from in-state rather than out-of-state dealers.<sup>110</sup> Proponents of the sales tax exemption say it would lead to more tourism dollars in Tennessee by attracting coin shows, which could lead to increased sales of other merchandise that is subject to the state and local sales tax and increased local hotel tax revenue, potentially offsetting decreases in state and local sales tax revenue from the exemption.<sup>111</sup> Organizers of coin shows have said that they do not locate in Tennessee because of its sales tax.<sup>112</sup> The Tennessee Department of Tourist Development estimates that the average daily expenditures per traveler

<sup>104</sup> Tennessee Code Annotated, Section 56-2-201(5)(B).

<sup>105</sup> Arizona, Arkansas, Idaho, Maryland, Nevada, New Jersey, Texas, and Washington. See appendix C.

<sup>106</sup> Nevada Administrative Code, Section 372.170.

<sup>107</sup> TACIR staff review.

<sup>108</sup> Annotated Laws of Massachusetts, Section 64H-6(II).

<sup>109</sup> Oklahoma Administrative Code, Section 710:65-13-95(c).

<sup>110</sup> Interview with Pete Dodge, founder, Nashville Coin Gallery, on June 16, 2021.

<sup>111</sup> Industry Council for Tangible Assets 2016.

<sup>112</sup> Telephone interview with Whitman Expo on August 5, 2021; Steven Ellsworth, governor, American Numismatic Organization, Tennessee Senate Finance, Ways and Means Revenue Subcommittee on March 12, 2019 (Senate Bill 457).



to Tennessee would be \$132.40, including transportation,<sup>113</sup> and some stakeholders say that coin shows can attract as many as 10,000 attendees.<sup>114</sup>

Any sales tax exemption has the potential to decrease state and local revenue. The General Assembly has considered exemptions for precious metal coins and bullion in the past<sup>115</sup> but has not adopted them because of concerns about how any exemptions erode the sales tax base that the state and local governments rely on for a large percentage of their revenue.<sup>116</sup> In fiscal year 2021-22, 56% of state tax dollars were from the state sales tax,<sup>117</sup> and some cities in Tennessee get most of their tax revenue from the local option sales tax.<sup>118</sup>

### The American Rescue Plan Act of 2021

Delaying enacting a sales tax exemption for precious metal coins and bullion may help ensure that Tennessee does not lose any of the federal funds that it is set to receive through the American Rescue Plan Act. The Act includes a provision that requires states to give back federal funds used for “a reduction in the net tax revenue.”<sup>119</sup> If the General Assembly enacts a sales tax exemption that results in a reduction in the net tax revenue of the state before Tennessee spends all of the estimated \$4 billion that it is set to receive through the Act, the state may have to give back some federal funds.<sup>120</sup>

In June 2021, Kentucky and Tennessee filed a lawsuit contesting the constitutionality of the provision (*Kentucky et al v. Yellen*). The states say that they “are entitled to make taxing decisions based on their own views of sound public policy and without being forced to consider whether their policy choices align with the views of federal policymakers.”<sup>121</sup> However, the US Department of Justice said that “even if a state chooses to make changes that result in a reduction in net tax revenue, the act bars a state only from using Rescue Plan funds—as opposed to other means—to offset that reduction.”<sup>122</sup> Although the district court ruled in favor of Kentucky and Tennessee,<sup>123</sup> the decision could be appealed. The lawsuit was one of six filed by state attorneys general challenging the provision.<sup>124</sup> Resolution

The American Rescue Plan Act includes a provision that requires states to give back federal funds used for “a reduction in the net tax revenue.”

In June 2021, Kentucky and Tennessee filed a lawsuit contesting the constitutionality of the provision (*Kentucky et al v. Yellen*).

Although the district court ruled in favor of Kentucky and Tennessee, the decision could be appealed.

<sup>113</sup> Email from Adam Mansell, statistical research specialist, Tennessee Department of Tourist Development, on August 19, 2021.

<sup>114</sup> Steven Ellsworth, governor, American Numismatic Organization, Tennessee Senate Finance, Ways and Means Revenue Subcommittee on March 12, 2019 (Senate Bill 457).

<sup>115</sup> See table 3.

<sup>116</sup> Mayor Kevin Brooks, vice chairman, TACIR Commission meeting on September 16, 2021.

<sup>117</sup> The Budget of the State of Tennessee, Fiscal Year 2021-22.

<sup>118</sup> See, for example, Mt. Juliet’s budget for fiscal year 2021-22: <https://mtjuliet-tn.gov/ArchiveCenter/ViewFile/Item/73>.

<sup>119</sup> American Rescue Plan Act of 2021.

<sup>120</sup> United States Department of the Treasury 2021.

<sup>121</sup> Plaintiff’s Motion for Summary Judgement filed June 23, 2021, *Kentucky et al v. Yellen*.

<sup>122</sup> Defendant’s Motion to Dismiss filed July 21, 2021, *Kentucky et al v. Yellen*.

<sup>123</sup> Walczak 2021.

<sup>124</sup> Loricchio 2021.

of the lawsuits may provide clarity regarding the effect on federal funds for Tennessee were Tennessee to enact a sales tax exemption. But until then, enacting a sales tax exemption for precious metals may result in Tennessee giving back some federal funds.

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## Appendix A: Public Chapter 585, Acts of 2021



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 585**

**SENATE BILL NO. 279**

**By Rose**

Substituted for: House Bill No. 353

By Hulsey, Gary Hicks

AN ACT to amend Tennessee Code Annotated, Title 4; Title 8; Title 9; Title 12; Title 45; Title 47; Title 48; Title 56 and Title 67, relative to a gold depository.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:


SECTION 1. The Tennessee advisory commission on intergovernmental relations (TACIR) shall, within existing resources, study the feasibility of creating a state gold depository, including whether other states or jurisdictions have created a gold depository. TACIR shall report its findings and recommendations to the speaker of the senate, the speaker of the house of representatives, and the legislative librarian no later than January 1, 2022.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 279

PASSED: May 4, 2021

  
Randy McNally  
RANDY McNALLY  
SPEAKER OF THE SENATE

  
Cameron Sexton  
CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 27<sup>th</sup> day of May 2021

  
Bill Lee  
BILL LEE, GOVERNOR

## Appendix B: Depository Fee Schedules

**APMEX  
(Citadel Global Depository Services)  
Fee Information**

Portfolio Value	Storage Rate
Up to \$1 million	0.55%
Up to \$10 million	0.50%
Over \$10 million	0.45%
Note: Minimum monthly fee is \$15.	

Source: APMEX Website (accessed on 9/1/2021).  
See <https://www.apmex.com/storage/storage-fees>.

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**Appendix B: Depository Fee Schedules (continued)**

**Brink's Global Services USA - Storage Fees**

Service Charges			
Commodity	Size	Daily Storage Charge	Withdrawal Charge
<b>BARS</b>			
<b>Gold Bars/Grain Bags - AU</b>	0.03215 oz (1 gram)	\$ 0.0175	\$ 4
	1 oz	\$ 0.0375	\$ 4
	5 oz	\$ 0.0600	\$ 4
	10 oz	\$ 0.0900	\$ 5
	32.15 oz (1 kilo)	\$ 0.0120	\$ 6
	100 oz	\$ 0.0225	\$ 8
	400 oz	\$ 0.0435	\$ 15
<b>Silver Bars - AG</b>	5 oz	\$ 0.0250	\$ 5
	10 oz	\$ 0.0300	\$ 5
	100 oz	\$ 0.0500	\$ 10
	1,000 oz	\$ 0.1100	\$ 15
<b>Silver Coin Bags - AG</b>	\$1,000 FV or Part	\$ 0.1200	\$ 15
	90% & 80% Bags	\$ 0.1200	\$ 15
<b>Platinum Bars - PT</b>	1 oz	\$ 0.0500	\$ 4
	10 oz	\$ 0.1200	\$ 5
	50 oz	\$ 0.2250	\$ 7
	150 oz	\$ 0.2750	\$ 9
<b>Palladium Bars - PD</b>	1 oz	\$ 0.0500	\$ 4
	10 oz	\$ 0.12	\$ 5
	50 oz	\$ 0.23	\$ 7
	100 oz	\$ 0.28	\$ 8
<b>PGM Sponge/Grain</b>	1 oz	\$ 0.04	\$ 1
	5 oz	\$ 0.04	\$ 2
	10 oz	\$ 0.06	\$ 3
	100 oz	\$ 0.22	\$ 7
	250 oz	\$ 0.27	\$ 9
	500 oz	\$ 0.32	\$ 12
	1,000 oz	\$ 0.51	\$ 15
<b>Rhodium Sponge/Grain</b>	1 oz	\$ 0.04	\$ 3
	5 oz	\$ 0.07	\$ 4
	10 oz	\$ 0.12	\$ 5
Services	Unit	Price	
Mail Packing	Per Package	\$ 25	

**Appendix B: Depository Fee Schedules (continued)****Brink's Global Services USA - Storage Fees (continued)**

Service Charges			
Commodity	Size	Daily Storage Charge	Withdrawal Charge
<b>COINS</b>			
Gold Coins (Rates per Coin)	1 oz	\$ 0.08	\$ 0.06
	1/2 oz	\$ 0.06	\$ 0.05
	1/4 oz	\$ 0.06	\$ 0.05
	1/10 oz	\$ 0.03	\$ 0.03
Full Boxes	Monthly/Per box	\$ 13.75	\$ 15.00
Silver Coins (Rates per Coin)	1 oz	\$ 0.06	\$ 0.06
	5 oz	\$ 0.07	\$ 0.06
Full Boxes	Monthly/Per box	\$ 8.75	\$ 15.00
Platinum Coins (Rates per Coin)	1 oz	\$ 0.08	\$ 0.06
	1/2 oz	\$ 0.06	\$ 0.05
	1/4 oz	\$ 0.06	\$ 0.05
	1/10 oz	\$ 0.04	\$ 0.03
Palladium Coins - PD (Rates per Coin)	1 oz	\$ 0.08	\$ 0.06
Full Boxes		\$ 10.00	\$ 15.00
Services	Unit	Price	
Sort by Year	Per 100 Coins or Part thereof	\$ 10.00	
Mail Packing	Per Package	\$ 25.00	
<b>MINIMUM STORAGE FEE - \$70 PER MONTH</b>			

Source: Email from Brink's Global Services, Precious Metals Vault Services.

**Appendix B: Depository Fee Schedules (continued)**

**Dakota Depository Company - Storage Fee Schedule**

Discount Tiers		Tier 1	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6
Average Account Value		≥\$100,000	≥\$250,000	≥\$500,000	≥\$1,000,000	≥\$2,500,000	≥\$5,000,000
Metals	Base Rate	15% Disc	20% Disc	27.5% Disc	37.5% Disc	45% Disc	50% Disc
Gold							
Platinum	60 Basis Pts (BPS) (.0060)	51 BPS (.0051)	48 BPS (.0048)	44 BPS (.0044)	38 BPS (.0038)	33 BPS (.0033)	30 BPS (.0030)
Palladium							
Silver	75 Basis Pts (BPS) (.0075)	64 BPS (.0064)	60 BPS (.0060)	54 BPS (.0054)	47 BPS (.0047)	41 BPS (.0041)	38 BPS (.0038)

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## Appendix B: Depository Fee Schedules (continued)

### Delaware Depository - Fee Schedule

#### Non-segregated storage

The annual fee for Non-Segregated Storage for products other than 1,000-ounce silver bars is 0.50% (one-half of one percent) of the total dollar value of the Precious Metals in storage or the Declared Value provided in writing by You. The annual fee for storage of 1,000-ounce silver bars is \$102.00 per bar. The annual fee for storage of 100-ounce gold bars is \$180.00 per bar. The minimum charge is \$25 per billing.

#### Segregated Storage

The annual rate for Segregated Storage is 1.5% (one and one-half percent) of the total dollar value of Bullion in storage. Storage fees will be billed semi-annually in arrears. The minimum charge is \$50 per billing.

#### Shipping Fees

A \$25.00 per package handling fee applies to shipments originating from or delivered to locations within the United States. The amount that You pay for postage, registration, and insurance charges will be billed to you on a C.O.D basis. Shipments will be prepared in accordance with standard DDSC practices. Fees for shipments originating from or delivered to locations outside the United States will be quoted upon request.

#### Early Withdrawal Fee

An Early Withdrawal Fee in the amount of \$150 will be assessed if You deposit Bullion holdings and later withdraw the same Bullion holdings within six (6) months of the date of Your first deposit. The Early Withdrawal Fee will not be assessed as long as any quantity of Bullion is held in the Account at the time of such withdrawal.

#### Personal Pickup and Account Assistance Fees

Personal Pickup Fees:

\$0.10 per ounce for all metal, other than the items listed below:

\$10.00 per item for:

- |                            |                               |                                |
|----------------------------|-------------------------------|--------------------------------|
| 1) 1,000-ounce silver bars | 4) 50-ounce platinum plates   | 7) Sealed 90% silver bags      |
| 2) 100-ounce gold bar      | 5) PGM Sponge containers      | 8) Sealed 40% silver clad bags |
| 3) 400-ounce gold bars     | 6) 100-ounce palladium plates | 9) Mint sealed coin boxes      |

**Appendix B. Depository Fee Schedules (continued)**

**International Depository Services of Texas - Fee Schedule**

Fees	
<b>Storage Fees (Annual)</b>	.65% of the account value up to \$250,000 .40% of the account value for accounts at \$250,000.01 to \$500,000 .35% of the account value for accounts valued at \$500,000.01 to \$2,500,000 .30% of the account value for accounts valued greater than \$2,500,000.01 to \$5,000,000 Over \$5,000,000 please call for custom quote
<b>Handling Fee</b>	Mail \$30.00 per package
<b>Release Fee</b>	Preparation and release fee for shipments made by armored carriers, and for direct releases to the account Owner, or authorized agent: Bullion - \$0.008 per ounce Certified Coins - \$0.03 each Minimum Charge per Release - \$30.00

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**Appendix B: Depository Fee Schedules (continued)**

**Money Metals Depository (Idaho)  
Fee Information**

Value of Your Holding	Annual Fee (billed quarterly)
\$0 - \$15,999	\$96
\$16,000 - \$99,999	0.59% (.0059)
\$100,000 - \$999,999	0.49% (.0049)
\$1,000,000 - \$2,999,999	0.39% (.0039)
Call for pricing on \$3+ million	

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**Appendix B: Depository Fee Schedules (continued)**

**Texas Bullion Depository - Schedule of Fees**

Segregated Storage Fees for Gold, Platinum, Palladium, and Silver up to 50,000 Ounces		
Account balance From	To	Annual Rate
\$ 0.01	\$ 2,499,999.99	0.50%
\$ 2,500,000.00	\$ 4,999,999.99	0.45%
\$ 5,000,000.00	\$ 7,499,999.99	0.40%
\$ 7,500,000.00	\$ 9,999,999.99	0.35%
\$ 10,000,000.00	\$ 24,999,999.99	0.30%
\$ 25,000,000.00	\$ 49,999,999.99	0.25%
\$ 50,000,000.00	\$ 99,999,999.99	Negotiable
\$ 100,000,000.00	\$ 100,000,000 +	Negotiable
Non-Storage Fees		
Fee Type	Fee Amount	Fee Details
Account Setup Fee	\$ 50	Per account
Withdrawal Fee	\$ 25	Per transaction
Customer Room Usage Fee	\$ 35	Per 1/2 hour
Postage / Transportation Fee (Domestic) for Gold, Platinum, Palladium, Rhodium	\$ 25	Up to 100 ounces per transaction, plus 15 cents (\$0.15) per ounce over 100 ounces
Personal Pick-Up Fee	\$ 25	Per transaction
Replacement Pallet Packaging Fee	\$ 50	Per pallet
Stop Payment Fee	\$ 30	Per transaction

Source: APMEX Website (accessed on 9/1/2021).  
 See <https://www.apmex.com/storage/storage-fees>.

## Appendix B: Depository Fee Schedules (continued)

### United Precious Metals Association (Utah) (Alpine Gold Exchange Vaulting Services) Fee Schedule

All funded gold coin accounts are assessed monthly membership dues of approximately \$4.00\*, which covers vaulting and insurance of the first two gold coins, or fractions thereof. After that, vaulting costs about \$0.40 cents per gold coin per month. The vaulting of silver coins costs about 1.75 cents per coin per month. Silver and Goldback accounts have no membership fee.

Estimated Monthly Cost		
Account Total	Cost	
\$4,000 Gold Coin Account	\$ 4.00	
\$10,000 Gold Coin Account	\$ 5.20	
\$50,000 Gold Coin Account	\$ 13.20	
\$100,000 Gold Coin Account	\$ 21.20	
\$2,500 Silver Account	\$ 1.40	
\$10,000 Silver Account	\$ 5.25	
\$50,000 Silver Account	\$ 25.20	
\$0 - \$250,000 Goldback Account	Free	
Fee Description	Fee	Type
Member Dues for unfunded accounts	Free	N/A
Physical Withdrawal of Gold, Goldback, or Silver coins	Free	N/A
Member Dues for Funded Goldback Accounts	Free	N/A
Member Dues for Funded Gold Coin Accounts	\$ 0.10	Gold
Vaulting/insurance for up to \$100 Gold Dollars	Free	N/A
Monthly vaulting/insurance for each increment of \$50 Gold Dollars above the initial \$100 Gold Dollars	\$ 0.01	Gold
Monthly vaulting/insurance for each increment of \$20 Silver Dollars	\$ 0.01	Silver
Up to \$10,000 Paper Dollar monthly volume in redemptions of prior contributions	Free	N/A
Switching holding from gold to silver or vice versa (over 10k)	1.00%	Either
Silver dollar redemptions in excess of \$10,000 in a 30 day period	Varies	Silver
Silver redemptions if forced to sell out of network (i.e, a member wants to sell \$1,000,000 worth of silver immediately)	Wholesale Rate	
Gold redemptions in excess of \$10,000 in a 30 day period	Varies	
Gold redemptions if forced to sell out of the network (i.e, a member wants to sell \$1,000,000 worth of gold immediately)	Wholesale Rate	
Monthly True Link Debit card fee when activated if not exempt	10 (Up to 100 Gold and Silver Dollars received is free per 30 day period)	Paper
Member to Merchant transfers	1.00%	Either

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## Appendix C: Sales Tax Exemptions for Precious Metals by State

State	Sales Tax Exemptions for Precious Metals	Exempted Metals	Source
Alabama	Coins and bullion exempted	Gold, silver, platinum, palladium, and combinations of these metals	Code of Alabama, Section 40-23-4(a)(51)
Alaska	No state sales tax	N/A	National Conference of State Legislatures, "Quick Reference Fiscal Table," NCSL.org, Posted July 2020, Updated November 18, 2020. <a href="https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx">https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx</a>
Arizona	Coins and bullion exempted	Gold, silver, platinum, palladium, and rhodium	Arizona Revised Statute, Section 42-5061(A)(21)
Arkansas	Coins and bullion exempted	Gold, silver, platinum, and palladium	Arkansas Code, Section 26.52.454
California	Coins and bullion exempted for sales greater than \$1,500.	Gold, silver, and other precious metals for coins; gold and silver for bullion	18 California Code of Regulations, Section 1599; California Revenue and Tax Code, Section 6355
Colorado	Coins and bullion exempted	Gold, silver, platinum, palladium, and other precious metals	Colorado Revised Statutes, Section 39-26-706(4); Colorado Revised Statutes 39-26-102(2.6) and (6.5)
Connecticut	Coins and bullion exempted for sales greater than \$1,000.	Gold and silver	Connecticut General Statutes, Section 12-412(45)
Delaware	No state sales tax	N/A	National Conference of State Legislatures, "Quick Reference Fiscal Table," NCSL.org, Posted July 2020, Updated November 18, 2020. <a href="https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx">https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx</a>
Florida	Coins and bullion exempted for sales greater than \$500.	Gold, silver, platinum, and combinations of these metals	Florida Administrative Code, Section 12A-1.0371, Florida Annotated Statutes, Section 212.08(7)(ww) and 212.05(1)(j)
Georgia	Coins and bullion exempted	Gold, silver, platinum, and combinations of these metals	Official Code of Georgia Annotated, Section 48.8.3(66) and (67)

**Appendix C: Sales Tax Exemptions for Precious Metals by State (continued)**

State	Sales Tax Exemptions for Precious Metals	Exempted Metals	Source
Hawaii	No exemption for coin and bullion	N/A	Hawaii Tax Code
Idaho	Coins and bullion exempted	Gold, silver, platinum, rhodium, chromium, and other precious metals	Idaho Administrative Code, Section 35.01.02.039; Idaho Code, Section 63-3622V
Illinois	Coins and bullion exempted	Gold and silver for coins; any precious metal for bullion	Illinois Administrative Code, Section 130.120aa; 35 Illinois Compiled Statutes 120/2-5(18)
Indiana	IRA-qualified coins and bullion exempted	Gold, silver, platinum, and palladium	Indiana Code, Section 6-2.5-5-47
Iowa	Coins and bullion exempted	Gold, silver, platinum, palladium, and combinations of these metals	Iowa Code, Section 423.3.91
Kansas	Coins and bullion exempted	Gold and silver for coins; gold, silver, platinum, palladium, and combinations of these metals for bullion	Kansas Statutes Annotated, Section 79.3606(mmmm)
Kentucky	No exemption for coin and bullion	N/A	Kentucky Revised Statutes, Section 139.470, Revenue Cabinet Kentucky v. Saylor, 738 S.W.2d 426, 1987 Ky. App. LEXIS 585 (Ky. Ct. App. 1987)
Louisiana	Coins exempted for sales less than \$1,000 and for item(s) purchased at a trade show; bullion exempted	Gold, silver, and platinum	Louisiana Revised Statutes, Sections 47:302(AA)(32) and 47:302(BB)(98)
Maine	No exemption for coin and bullion	N/A	36 Maine Revised Statutes, Section 1760
Maryland	Coins and bullion exempted for sales greater than \$1,000.	Any precious metal that has gone through a refining process and is in a state or condition such that its value depends on its precious metal content and not on its form	Maryland Tax-General Code Annotated, Section 11-214.1
Massachusetts	Coins and bullion exempted for sales greater than \$1,000.	Gold and silver	Annotated Laws of Massachusetts, Section 64H-6(II)

**Appendix C: Sales Tax Exemptions for Precious Metals by State (continued)**

State	Sales Tax Exemptions for Precious Metals	Exempted Metals	Source
Michigan	Coins and bullion exempted	Gold, silver, platinum, palladium, and other precious metals for coins; Gold, silver, and platinum for bullion	Michigan Compiled Laws Service, Section 205.54s
Minnesota	Bullion exempted	Gold, silver, platinum, and palladium	Minnesota Annotated Statutes, Section 297A.67.34
Mississippi	No exemption for coin and bullion	N/A	Mississippi Code Annotated, Section 27-65-111
Missouri	Coins and bullion exempted	Gold, silver, platinum, and palladium	Missouri Revised Statutes, Section 144.815
Montana	No state sales tax	N/A	National Conference of State Legislatures, "Quick Reference Fiscal Table," NCSL.org, Posted July 2020, Updated November 18, 2020. <a href="https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx">https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx</a>
Nebraska	Coins and bullion exempted	Gold and silver for coins; Gold, silver, platinum, palladium, and combinations of these metals for bullion	Revised Statutes of Nebraska Annotated, Section 77-2704.66
Nevada	Coins exempted if used as a medium of exchange or not sold for a premium; bullion exempted if used as a medium of exchange or not sold for more than 50% greater than the face value	No precious metals specified	Nevada Administrative Code, Section 372.170
New Hampshire	No state sales tax	N/A	National Conference of State Legislatures, "Quick Reference Fiscal Table," NCSL.org, Posted July 2020, Updated November 18, 2020. <a href="https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx">https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx</a>



**Appendix C: Sales Tax Exemptions for Precious Metals by State (continued)**

State	Sales Tax Exemptions for Precious Metals	Exempted Metals	Source
New Jersey	No exemption for coins; bullion exempted if purchased in a commodities market	Gold and silver	New Jersey Statutes, Section 54:32B-8.32
New Mexico	No exemption for coin and bullion	N/A	Coins: New Mexico Administrative Code, Section 3.2.1.27
New York	Coins and bullion exempted for sales greater than \$1,000.	Gold, silver, platinum, palladium, rhodium, ruthenium, and iridium	New York Consolidated Laws Service Tax, Section 1115(a)(27)
North Carolina	Coins and bullion exempted	No precious metals specified	North Carolina General Statutes, Section 105-164.13(69)
North Dakota	Coins and bullion exempted	No precious metals specified	North Dakota Century Code, Section 57-39.2-04(31)
Ohio	Coins and bullion exempted	Gold, silver, platinum, and palladium	Ohio Revised Code Annotated, 5739.02(B)(57); 26 US Code Service 408(m)(3)(B)
Oklahoma	Coins and bullion exempted	Gold, silver, platinum, palladium, and other precious metal	Oklahoma Administrative Code, Section 710:65-13-95; 68 Oklahoma Statutes, Section 1357(42)
Oregon	No state sales tax	N/A	National Conference of State Legislatures, "Quick Reference Fiscal Table," NCSL.org, Posted July 2020, Updated November 18, 2020. <a href="https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx">https://www.ncsl.org/research/fiscal-policy/basic-information-about-which-states-have-major-ta.aspx</a>
Pennsylvania	Coins and bullion exempted	Gold, silver, platinum, palladium, and other precious metals	72 Pennsylvania Statutes, Section 7204(65)
Rhode Island	Coins and bullion exempted	Not specified for coins; Gold, silver, platinum, rhodium, chromium, and other precious metals for bullion	Rhode Island General Laws, Sections 44-18-30(24) and (43)
South Carolina	Coins and bullion exempted	Not specified for coins; Gold, silver, platinum, and combinations of these metals for bullion	South Carolina Code, Section 12-36-2120(70)

**Appendix C: Sales Tax Exemptions for Precious Metals by State (continued)**

State	Sales Tax Exemptions for Precious Metals	Exempted Metals	Source
South Dakota	Coins and bullion exempted	Gold, silver, and other precious metals for coins; Gold, silver, platinum, palladium, and combinations of these metals for bullion	South Dakota Codified Laws, Section 10-45-110
Tennessee	No exemption for coin and bullion	N/A	Tennessee Code Annotated, Section 67-6-301 et seq.
Texas	Coins and bullion exempted	Gold and silver for coins; Gold, silver, and platinum for bullion	34 Texas Administrative Code, Section 3.336; Texas Tax Code, Section 151.336
Utah	Coins and bullion exempted	Gold, silver, and platinum	Utah Code Annotated, Section 59-12-104(50) and (51)
Vermont	No exemption for coin and bullion	N/A	32 Vermont Statutes Annotated, Section 9741
Virginia	Coins and bullion exempted for sales greater than \$1,000.	Gold, silver, platinum, and combinations of these metals	Virginia Code Annotated, Section 58.1-609.1(19)
Washington	Coins and bullion exempted	Gold, silver, platinum, palladium, rhodium, and other precious metals	Annotated Revised Code of Washington, Section 82.04.062; Washington Administrative Code, Section 458-20-248
West Virginia	Coins and bullion exempted	Gold, silver, platinum, palladium, and other precious metals for coins; Gold, silver, platinum, and palladium for bullion	West Virginia Code, Section 11-15-9r
Wisconsin	No exemption for coin and bullion	N/A	Wisconsin Administrative Code Tax, Section 11.78(1)
Wyoming	Coins and bullion exempted	Gold and silver	Wyoming Statute, Sections 39-11-105(b)(vi)(a), 9-4-1302, and 9-4-1304

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## Appendix D: Sales Tax Exemption Bills Introduced in Tennessee

Bill	Description
Senate Bill 612 by Campfield, House Bill 469 by Joe Carr (107th General Assembly)	Introduced as a caption bill. As amended, the bill would have exempted from the sales tax the retail sale of gold, silver, and platinum bullion, and all gold, silver, and platinum coins, when used as a medium of exchange, security, or commodity.
Senate Bill 2574 by Campfield, House Bill 2677 by Joe Carr (107th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of all gold and silver bullion that is used as a medium of exchange, security, or commodity. The bill was amended to include all gold and silver coins in the exemption.
Senate Bill 3361 by Campfield, House Bill 3202 by Niceley (107 General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of gold, silver and platinum coins and bullion that are used as mediums of exchange.
House Bill 104 by Joe Carr (108th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of all gold and silver bullion that is used as a medium of exchange, security, or commodity.
Senate Bill 301 by Niceley, House Bill 111 by Joe Carr (108th General Assembly)	As introduced, the bill would have exempted from sales tax the sale of all gold or silver coins issued as legal currency by the United States, or issued by a sovereign nation recognized by the United States government, regardless of whether the sales price may be more or less than the face value of the coin.
Senate Bill 469 by Niceley, House Bill 120 by Dale Carr (108th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of gold, silver and platinum coins and bullion that are used as mediums of exchange.
Senate Bill 1662 by Tracy, House Bill 1518 by Terry (109th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of all gold and silver bullion that is used as a medium of exchange, security, or commodity.
Senate Bill 1610 by Niceley, House Bill 1627 by Hulsey (109th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of gold, silver, and platinum coins and bullion that are used as mediums of exchange. As amended, the bill would have exempted from the sales tax the sale of all coins and bullion that are manufactured in whole or in part from gold, silver, platinum, or other metal; used solely as a medium of exchange, security, or commodity; and sold based on their intrinsic value as precious metals or collectible items rather than their representative value as a medium of exchange.
Senate Bill 350 by Niceley, House Bill 342 by Hulsey (110th General Assembly)	As introduced, the bill would have exempted from the sales tax sales of paper money, coins, and bullion that are manufactured in whole or in part from gold, silver, platinum, palladium, or other material; used solely as a medium of exchange, security, or commodity in this or another state, the United States, or a foreign nation; and sold based on their intrinsic value as precious material or collectible items rather than their representative value as a medium of exchange.

### Appendix D: Sales Tax Exemption Bills Introduced in Tennessee (continued)

Bill	Description
Senate Bill 666 by Roberts, House bill 1008 by Holt (110th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of all gold and silver bullion and coins that are used as a medium of exchange, security, or commodity.
Senate Bill 1893 by Gresham, House Bill 1915 by Gant (110th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of platinum, gold, or silver bullion, the sale of numismatic coins that are sold for less than \$10,000, and the sale of numismatic coins at a national, statewide, or multi-county trade show. The bill was amended to limit the exemption to the sale of coins and bullion that are valued solely upon their precious metals content.
Senate Bill 333 by Gresham, House Bill 212 by Gant (111th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of platinum, gold, or silver bullion, the sale of numismatic coins that are sold for less than \$10,000, and the sale of numismatic coins at a national, statewide, or multi-county trade show.
Senate Bill 457 by Stevens, House Bill 992 by Gant (111th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of all coins, currency, and bullion that are manufactured in whole or in part from gold, silver, platinum, palladium, or other material; used solely as legal tender, security, or commodity in this or another state, the United States, or a foreign nation; and sold based on their intrinsic value as precious material or collectible items rather than their representative value as a medium of exchange.
Senate Bill 870 by Stevens, House Bill 514 by Gant (112th General Assembly)	As introduced, the bill would have exempted from the sales tax the sale of all coins, currency, and bullion that are manufactured in whole or in part from gold, silver, platinum, palladium, or other material; used solely as legal tender, security, or commodity in this or another state, the United States, or a foreign nation; and sold based on their intrinsic value as precious material or collectible items rather than their representative value as a medium of exchange.