

  
*Colorado Legislative Council Staff Fiscal Note*  
**FINAL**  
**FISCAL NOTE**

**Drafting Number:** LLS 09-0722  
**Prime Sponsor(s):** Rep. Lambert  
 Sen. Lundberg

**Date:** June 4, 2009  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Harry Zeid (303-866-4753)

**TITLE:** CONCERNING AN ELECTRONIC CURRENCY BACKED BY RESERVES OF PRECIOUS METALS.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
<b>State Revenue</b>		
<b>State Expenditures</b> General Fund and Cash Funds*	See the State Expenditures Section	
<b>FTE Position Change</b>		
<b>Effective Date:</b> The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on February 17, 2009.		
<b>Appropriation Summary for FY 2009-2010:</b> See the State Appropriations section.		
<b>Local Government Impact:</b> See the Local Government section.		

\* As of the close of business on February 13, 2009, the New York spot price for gold was \$942.10 per ounce on the ask and \$941.60 per ounce on the bid. The daily fluctuation ranged from a low of \$931.40 to a high of \$943.80 per ounce.

**Summary of Legislation**

HB09-1206 creates a system to allow the state and political subdivisions to make and receive payment using an electronic gold currency for the following types of transactions:

- taxes and other involuntary charges;
- purchase or sale of property by the state or a political subdivision;
- any payment that arises out of the exercise of eminent domain;
- judgments, decrees, or orders; and
- wages, salaries, fees, or other monetary compensation.

Duties of the State Treasurer under the bill include requirements to:

- designate one or more electronic gold currency payment providers to be an electronic gold currency payment provider for the state and political subdivisions through which the electronic gold currency transactions will be conducted;
- maintain one or more electronic gold currency accounts; and

- conduct all monetary transactions of the state involving gold and silver in any form through designated electronic gold currency payment providers and through electronic gold currency accounts.

The fiscal officer of each political subdivision of the state is required to:

- maintain one or more electronic gold currency accounts with an electronic gold currency payment provider as designated by the State Treasurer;
- conduct all monetary transactions of the political subdivision involving gold and silver through the payment provider and through electronic gold currency accounts;
- prepare and distribute forms, instructions, and informational materials to enable persons to pay to and receive from gold and silver from the political subdivision; and
- consult with the State Treasurer on the most effective and efficient manner of implementing the bill within the fiscal officer's political subdivision.

The bill also requires that all tobacco taxes be paid using electronic gold currency. Any person wishing to make or receive a payment in electronic gold currency must maintain an account with an electronic gold currency payment provider. Qualifications for a designated gold currency payment provider are identified in the bill. These include methods for the storage of gold and for providing a specie exchange to allow customers to undertake various conversions involving gold and silver coin, electronic gold currency, and legal tender of the United States.

Civil liability and criminal penalties (class 2 misdemeanor) are provided for the inaccurate determination of exchange rates between electronic gold currency and legal tender of the United States.

### **State Revenue and Expenditures**

All departments of state government, as well as representatives of local government were canvassed regarding the potential fiscal impact of the bill. The remarks below are representative of the responses received.

***State Treasurer*** - The bill would require substantial effort of the part of the State Treasury. The state's computer systems would require substantial re-programming, if not replacement. The state's current banking contracts extend another two to four years and all of the banks contacted were unable to accommodate the requested transactions. An extensive internet search yielded no providers with locations within the United States and the providers found were regulated by unrecognized foreign entities.

***Governor's Office*** - \$92,440 will be required annually beginning in FY 2009-10 for legal counsel to deal with constitutional questions around the issuance of a Colorado currency that could conflict with U.S. currency laws. Furthermore, fiscal impact is very difficult to determine because of potential unintended consequences of the bill.

**Department of Revenue** - One private company has been identified that is a government registered money service business dealing in digital gold currency. This company charges an annual storage fee of 1.2 gold grams and a processing fee of 1.0 percent. Transaction fees are paid by the party receiving the payment. Assuming that all sales tax and income tax filers used electronic gold currency to pay their liabilities to the state, transaction fees would cost the state as much as \$7.2 million per year. If the state received payments for taxes due in electronic gold currency, state revenue would be impacted in uncertain ways due to the fluctuations in the price of gold.

Many of the computer programs and accounting systems at the Department of Revenue will need to be revised to record the method of payment for each payment transaction. Excluding the Motor Vehicle Division (for which an impact has not yet been estimated), the department has identified an expenditure total for FY 2009-10 of \$707,468 General Fund and 2.4 FTE, including \$195,468 for personal services and \$512,000 for computer programming.

**Transportation** - The current Transport Permit System cannot be expanded to properly record transactions in multiple currencies and would need to be replaced at a cost of \$1.2 million to \$1.5 million. Alternatively, a manual process including 1.0 FTE would require \$41,386 in FY 2009-10, and \$36,158 beginning in FY 2010-11 to accomplish the same task. Additionally, a patch to the SAP enterprise resource planning and financial reporting system will require \$20,000 to \$60,000. It is assumed that the necessary patches to the Colorado Payroll Personnel System and the Colorado Financial Reporting System will be addressed by the State Controller's Office.

**Personnel and Administration** - The state will need an accounting system that can maintain both records at once. The state's current accounting system cannot perform this function. This will create an indeterminate impact.

**Human Services** - Significant but undetermined impact to compute point-in-time exchange values. Further, the right of civil remedy for miscalculation and the concept of official and personal responsibility coupled with the waiving of immunity creates an unmanageable risk that will drive serious but indeterminate cost and will make it difficult to find staff willing to assume the risk. Further, many counties have implemented County Wide Cost Allocation Plans and the increased cost to the local treasurer would be proportionately allocated to the county department of social services, generating costs attributed to the department that are reimbursed by the federal government at 34 percent. The county would be liable for the remaining 66 percent of costs incurred.

**Labor** - The potential exists for increased cost for transfer rates of between 5 percent and 7 percent on the items paid in the new electronic gold transfer. The impact on Unemployment Insurance tax payments in gold currency is unknown.

**Public Health and Environment** - \$15,000 to modify the accounts receivable system to interface with the State Treasurer's Office.

**Regulatory Agencies** - \$46,129 from the Division of Banking Cash Fund and 0.5 FTE beginning in FY 2009-10, to provide some degree of regulation of gold currency payment providers in a manner similar to money transmitters. Depending on the number of firms regulated, these costs would increase significantly.

**Law** - Additional legal services of \$11,265 and 0.1 FTE to assist its clients to implement the bill.

**Secretary of State** - \$29,600 for 400 hours of contractor computer programming to modify six online applications to accept payments in electronic gold currency.

The following departments indicated an **indeterminate but negative fiscal impact**: **Local Affairs, Natural Resources, Education, Judicial, and Higher Education**.

The following departments indicated **no fiscal impact**, primarily because it is assumed that the State Controller and the State Treasurer will be responsible for implementing the bill: **Health Care Policy and Financing, Agriculture, Corrections, and Public Safety**.

### **Local Government Impact**

Local governments would experience costs similar to those of the state to implement the bill.

### **State Appropriations**

The bill will require General Fund and cash funds appropriations in FY 2009-10 to implement the bill. To date, the exact amount of appropriations required has not been identified.

### **Departments Contacted**

All Departments