

MEMORANDUM

DATE: January 22, 2025

TO: House Industry, Business and Labor Committee

FROM: Lise Kruse, Commissioner

SUBJECT: Testimony in Opposition of House Bill No. 1239

Chairman Warrey and members of the House Industry, Business and Labor Committee, thank you for the opportunity to testify in opposition of House Bill No. 1239.

Our department oversees money transmitters, which include many crypto companies. The money transmitter law is a model law that this group approved two years ago. In the development of the model law, the industry was consulted, including crypto currency companies, and they were in agreement with the final version of the model law. Even before this model law was adopted, many crypto companies were requesting department licensing, even if it was not required. Licensing and oversight help the industry to communicate that they are indeed regulated, it provides their

customers with a certain comfort level, and also helps the companies with their other business relationships in the financial services industry.

The department is in opposition to Section 2 of the Bill. It is unnecessary to exempt miners since the specific activity of mining does not meet the definition of money transmission. Miners that just mine are already exempt. If the concern is that we are in some way restricting mining or regulating miners, that is not valid. North Dakota has welcomed miners, and miners are not regulated under the money transmitter statute unless they also conduct money transmission in addition to their mining business. This exemption in section 2 creates a loophole, if any of our crypto companies that transact large amounts of transmission business decide to mine a few crypto coins as a side business, they would automatically be exempt from money transmission laws and consumers would lose protections. If the crypto industry wants to be treated the same as other financial companies, they should not get to operate outside of a regulatory framework, a framework they had a voice in drafting.

I also strongly oppose any exemption due to the amount of fraud that unfortunately happens in this arena. The FBI estimated losses related to crypto of more than \$5.6 billion in 2023, which was a 45% increase from the year prior. We need to protect our consumers as much as we can, whether

they transact with fiat currency or crypto currency. We have revoked several licenses and money has been returned to North Dakota citizens. A few large crypto companies in recent years have garnered national news due to fraud and resulting imprisonment of their owners. With this model law, we were able to have a seat at the table on behalf of North Dakota citizens.

Section 4 of the Bill addresses the prohibition on use and testing of central bank digital currency. Any use of a central bank digital currency in the United States must be approved by Congress. Although there is no such plan as of now, if the federal government approved a central digital bank currency, our banks, credit unions and trust companies would likely end up with this currency on the books. We need to make sure our department is not prevented from regulating those activities, where we are giving the authority to the federal government for oversight.

Section 4 also addresses the permitted uses of digital assets. It does not allow a governing authority to intervene when it comes to a business accepting digital assets. Banks and trust companies under our supervision do sometimes end up holding digital assets for their trust clients, and we need to have the ability to work with trustees that oversee crypto as well as any other asset type. This section of the Bill conflicts with our duties outlined

in Title 6, where it establishes that trust assets, crypto or otherwise, need oversight.

Mr. Chairman, thank you for the opportunity to provide this testimony. I would be happy to answer any questions the Committee may have.