

MEMORANDUM

DATE: March 5, 2025
TO: Senate Finance and Taxation Committee
FROM: Lise Kruse, Commissioner
SUBJECT: Neutral Testimony on House Bill No. 1441

Chairman Weber and members of the Senate Finance and Taxation Committee, thank you for the opportunity to testify on House Bill No. 1441.

Our department oversees banks, credit unions, trust companies, and other nonbank financial corporations such as money transmitters and lenders. The department is neutral on this Bill. We were initially in opposition due to unintended consequences that were addressed in the amended version presented to you today. I would like to take this opportunity to address on the record what this Bill does and what it does not do.

In Section 2 of the Bill, there is a new addition to what is considered legal tender in the state of North Dakota. It would add gold and silver to be legal tender. Legal tender in federal law (31 U.S.C § 5103) is defined as

money that is legally recognized as valid form of payment for debts, taxes, and other dues. It includes all U.S. coins and currency, including Federal Reserve notes. Local jurisdictions such as states can set their own definition for what is considered legal tender, and the proposal is to include gold or silver. Legal tender does not require businesses to accept it for purchases of goods. A business can establish their own policies about whether to accept what is considered legal tender. That is why businesses can now accept Bitcoin if they so choose, or gold, or any other commodity. It does not address the ability of bartering, which is what happens when a business is willing to accept a commodity in exchange for their products.

The Bill has been amended to be consistent with other states that have included gold as legal tender. It includes exemptions and makes it clear that the state does not force anyone or any business to accept legal tender. Although legal tender by definition is what must be accepted for debt repayments, the exemption in this Bill is not requiring banks and credit unions to accept gold, which would be problematic for the industry. Banks and credit unions are required to have fair value expressed in dollars on their balance sheet. Since any commodity can fluctuate in value, even on the same day, it would be a challenge for banks and credit unions to determine value. Since these instruments are likely not issued by the U.S. government, but a private

party, and sold through third party vendors, the ability to validate the authenticity is difficult. This is also a risk for the customer. A customer may spend \$5,000 to buy gold, but find when they spend it, it will not be valued the same. And again, to know that it is authentic, that the gold content is appropriate is difficult to ascertain for a person unfamiliar with precious metals.

In conclusion, since this Bill is not requiring our banks and credit union industry to accept gold or silver, our department is neutral.

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