

Good morning Mr. Chairman and members of the committee, for the record my name is Senator Bob Paulson, and I represent District 3 in Minot.

This morning I bring SB 2392 for your consideration. The purpose of this bill is to prevent the use of a potential Central Bank Digital Currency within the construct of the Uniform Commercial Code, or UCC.

What is a Central Bank Digital Currency? It is a digital form of central bank money that would be widely available to the general public.

"Central bank money" refers to money that is a liability of the central bank. In the United States, there are currently two types of central bank money: physical currency issued by the Federal Reserve and digital balances held by commercial banks at the Federal Reserve.

While Americans have long held money predominantly in digital form—for example in bank accounts, payment apps or through online transactions—a CBDC would differ from existing digital money available to the general public because a CBDC would be a liability of the Federal Reserve, not of a commercial bank. So the money would no longer be controlled at the bank level, but rather at the federal level.

So why is this bill necessary?

In March of 2022, President Biden signed an Executive order that calls for exploring a US Central Bank Digital Currency (CBDC) by placing urgency on research and development of a potential US CBDC, should issuance be deemed in the national interest.

Last month, Gov. Kristi Noem of SD vetoed a bill over concern that the amended definition of money in the Uniform Commercial Code could pave the way for a CBDC. Folks say that was just political because she's running for president. However, the veto was sustained because there are legislators and citizens that are concerned as well.

Subsequently, Gov. Ron DeSantis asked for legislation to prevent the use of CBDC in Florida. Folks say that's just political because he's also running for president. However, there are legislators passing the bill who are concerned as well.

There is a new program called FedNow that will launch in July and will enable digital payments from the Central Bank directly to individuals.

There is a resolution that has been introduced in the House by Rep Robin Weisz and others that I have provided a copy of. The resolution urges the US Congress not to support legislation or other efforts relating to the adoption of a CBDC in the US.

A CBDC would be programmable and trackable, and concerns include increased surveillance, loss of anonymity, potential restrictions on savings and spending, negative interest rates, automatic tax collection, disintermediation of commercial banks, and the eventual elimination of physical cash, driving the value of physical cash to zero.

There are several national organizations working together on this issue, and I reached out to one of them and asked what the best language would be to address this issue. The bill before you is the result of that conversation.

This bill is directly related to CBDCs, and specifically, the application of CBDCs in Secured Transactions under Uniform Commercial Code (UCC) Article 9.

A US CBDC would be considered a Deposit Account under ND's UCC statutes. Amending the definition of Deposit Account to exclude CBDCs, which is what this bill does, will prevent the use of CBDCs under UCC Article 9 Secured Transactions in ND.

It is important to note that state legislatures are limited in completely stopping a CBDC if/when adopted. A Federal CBDC will be considered legal tender and constitutional supremacy will be used to force the CBDC on the states. ND lawmakers have no say on the adoption of a CBDC by Washington. But we do have a say as to how a CBDC would be incorporated into Secured Transactions in ND.

The Uniform Commercial Code is one area where state legislatures can take action to prevent the adoption of a CBDC, but it is limited to transactions covered by the UCC. This bill amending the UCC statute is a small, but important step.

It is important to note that HB 1082 which amended the UCC earlier this session did not make any changes to Deposit Accounts, the UCC Drafting Committee notes indicate that existing Deposit Account provisions would remain suitable for accounts with a central bank.

In testimony and follow up interaction on HB 1082, supporters of that bill were united in opposition to a US CBDC.

Prof. Zierdt, who is ND's UCC representative and testified on 1082, states that she has concerns over a CBDC and that those concerns were shared by members of the UCC Drafting Committee. The UCC Drafting Committee stated that a CBDC will not fit within the amended UCC categories of electronic money or Controllable Electronic Records (CERs).

A CBDC will be considered a Deposit Account for purposes of UCC Article 9 – according to the UCC Committee this will be the case regardless of whether a CBDC is considered money elsewhere.

Supporters of HB 1082 used the common phrase 'The UCC takes the world as it is' – meaning that the UCC does not take sides or predict the future. SB 2392 acknowledges 1) that a US CBDC does not now exist, 2) that ND intends to clearly state its opposition to a CBDC, 3) this opposition to a CBDC is limited to UCC Article 9 Secured Transactions. However, it also sends a larger message from the state.

The WHEREAS statements of the House resolution on the potential of a CBDC concisely outline how the CBDC process started in Washington, DC and where it is going.

There is obviously debate about the understanding of the UCC and CBDC, but right or wrong, my understanding is that there are 6 states that have defeated the UCC bill, and 7 states are considering amending theirs to address the CBDC issue.

Mr Chairman, that is the bill. I would respectfully ask for a Do Pass and I would be happy to answer any questions that I can.