



NORTH DAKOTA
BANKERS
ASSOCIATION

HB 1082

March 6, 2023

FACTS

1. Money

The UCC does NOT define what money IS. No state law can do that. The UCC defines what the word money MEANS when used in longstanding UCC rules, which has been the law in ND.

The current UCC definition of money (NDCC 41-01-09) states: *"Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.* When 2 countries recently adopted bitcoin as legal tender, it gave rise to an argument that, e.g., an employer could issue paychecks to employees payable in bitcoin without their consent. The revised definition clarifies that bitcoin is not money for purposes of the UCC. Instead, bitcoin is a (Controlled Electronic Record) CER under UCC Article 12.

- a. New article 12 will similarly give transactions in CERs legal enforceability, which is necessary to establish trust so that more people will be willing to accept payment in CERs. For proponents of virtual currency, these new rules will allow markets to mature and grow.

OPPONENTS of this measure are concerned that Bitcoin (or other virtual currencies) was excluded from the definition of money, rather identified as Controllable Electronic Record (CER).

2. Central Bank Digital Currency (CBDC)

- While the U.S. Federal Reserve has discussed a CBDC in the U.S., there has NOT been federal legislation promoting and authorizing one in the U.S. However, The Marshall Islands created a blockchain-based currency called the Sovereign (or "Sov"), and the Bahamas created the "Sand Dollar." This helps reinforce the current need for clear rules and updated definitions and refute the argument that the UCC amendments are intended to pave the way for the United State Federal Reserve to introduce a CBDC. We take the world as it exists.

Opponents contend that "a U.S. CBDC" would provide the runway for the Fed (big government) to control and track the spending of the American consumer and invade their privacy.