Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1239

Introduced by

Representatives Toman, Christy, Hagert, Schauer, Warrey, D. Johnston

Senators Barta, Cory, Paulson

1 A BILL for an Act to create and enact a new section to chapter 11-33, ~~a new section to chapter~~

2 ~~13-09.1,~~ a new section to chapter 40-47, a new chapter to title 51, and a new section to chapter

3 58-03 of the North Dakota Century Code, relating to blockchain technology~~,~~ and protection for

4 digital asset mining~~, and an exemption from a money transmitter license~~.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6   **SECTION 1.** A new section to chapter 11-33 of the North Dakota Century Code is created

7 and enacted as follows:

8   **Protection for digital asset mining.**

9   1.   An individual may not be prohibited, restricted, or otherwise prevented from

10   participating in digital asset mining in an area zoned for residential use if the individual

11   engaging in digital asset mining complies with all county noise ordinances.

12   2.   In an area zoned for commercial use, a county may not:

13   a.   Place a limit on sound decibels generated from a digital asset mining business

14   which is more restrictive than limits imposed for sound pollution in that area

15   generally.

16   b.   Place restrictions on a digital asset mining business which do not apply to other

17   businesses in that area.

18   c.   Change the zoning of a digital asset mining business without providing notice and

19   an opportunity for comment.

20   3.   A digital asset mining business may appeal a change in zoning to the district court.

1   4.   For purposes of this section:

2   a.   "Digital asset mining" means using computer hardware and software specifically

3   designed or used for the purpose of validating data and securing a blockchain

4   network.

5   b.   "Digital asset mining business" means an individual or company operating a

6   digital asset mining facility that cumulatively draws more than one megawatt of

7   power in the state.

8   ~~**SECTION 2.** A new section to chapter 13-09.1 of the North Dakota Century Code is created~~

9   ~~and enacted as follows:~~

10   ~~**Exemption from money transmitter license.**~~

11   ~~1.   An individual or business is exempt from a money transmitter license under this~~

12   ~~chapter if the individual or business:~~

13   ~~a.   Operates a node or a series of nodes on a blockchain protocol.~~

14   ~~b.   Engages in digital asset mining.~~

15   ~~c.   Develops software on a blockchain protocol, including if the software effectuates~~

16   ~~the exchange of one digital asset for another digital asset.~~

17   ~~2.   A business or decentralized protocol that effectuates the exchange of one digital asset~~

18   ~~for another digital asset and does not exchange those digital assets for legal tender or~~

19   ~~bank deposits is exempt from a money transmitter license under this chapter.~~

20   ~~3.   For purposes of this section:~~

21   ~~a.   "Blockchain protocol" means any executable software deployed to a blockchain,~~

22   ~~including an additional standardized set of rules that use a previously existing~~

23   ~~blockchain as a base and which facilitate the transfer of data and electronic~~

24   ~~records and allow that data to be broadcast to nodes.~~

25   ~~b.   "Decentralized protocol" means a blockchain protocol software system governed~~

26   ~~by a set of predefined rules that execute autonomously without human~~

27   ~~intervention and which can be altered by some predetermined mechanism.~~

28   ~~c.   "Digital asset" means virtual currency, cryptocurrencies, natively electronic~~

29   ~~assets, including stablecoins and nonfungible tokens, and other digital-only~~

30   ~~assets that confer economic, proprietary, or access rights or powers.~~

1 ~~d. "Digital asset mining" means using computer hardware and software specifically~~

2 ~~designed or used for the purpose of validating data and securing a blockchain~~

3 ~~network.~~

4 ~~e. (1) "Node" means a computational device that:~~

5 ~~(a) Communicates with other devices or participants on a blockchain to~~

6 ~~maintain consensus and integrity of that blockchain;~~

7 ~~(b) Creates and validates transaction blocks; or~~

8 ~~(c) Contains and updates a copy of a blockchain.~~

9 ~~(2) A node does not exercise discretion over transactions initiated by the end~~

10 ~~user of the blockchain protocol.~~

11 **SECTION 2.** A new section to chapter 40-47 of the North Dakota Century Code is created

12 and enacted as follows:

13 **Protection for digital asset mining.**

14 1. An individual may not be prohibited, restricted, or otherwise prevented from

15 participating in digital asset mining in an area zoned for residential use if the individual

16 engaging in digital asset mining complies with all city noise ordinances.

17 2. In an area zoned for commercial use, a city may not:

18 a. Place a limit on sound decibels generated from a digital asset mining business

19 which is more restrictive than limits imposed for sound pollution in that area

20 generally.

21 b. Place restrictions on a digital asset mining business which do not apply to other

22 businesses in that area.

23 c. Change the zoning of a digital asset mining business without providing notice and

24 an opportunity for comment.

25 3. A digital asset mining business may appeal a change in zoning to the district court.

26 4. For purposes of this section:

27 a. "Digital asset mining" means using computer hardware and software specifically

28 designed or used for the purpose of validating data and securing a blockchain

29 network.

1   b.   "Digital asset mining business" means an individual or company operating a

2   digital asset mining facility that cumulatively draws more than one megawatt of

3   power in the state.

4   **SECTION 3.** A new chapter to title 51 of the North Dakota Century Code is created and

5   enacted as follows:

6   **Definitions.**

7   In this chapter, unless the context of use clearly requires otherwise:

8   1.   "Blockchain protocol" means any executable software deployed to a blockchain,

9   including an additional standardized set of rules that use a previously existing

10   blockchain as a base and which facilitate the transfer of data and electronic records

11   and allow that data to be broadcast to nodes.

12   2.   "Central bank digital currency" means a digital currency, a digital medium of exchange,

13   or a digital monetary unit of account issued by the United States federal reserve

14   system or a federal agency which is made directly available to institutions or

15   consumers by those entities, or which is processed or validated directly by those

16   entities. The term does not include a digital asset backed by legal tender or

17   government treasuries and issued by a private entity.

18   3.   "Digital asset" means virtual currency, cryptocurrencies, natively electronic assets,

19   including stablecoins and nonfungible tokens, and other digital-only assets that confer

20   economic, proprietary, or access rights or powers.

21   4.   "Governing authority" means any state agency or board, commission, or department

22   or any political subdivision.

23   5.   "Hardware wallet" means a physical device that is not continuously connected to the

24   internet and allows an individual to secure and transfer digital assets. The term

25   includes a physical device under which the owner of digital assets retains independent

26   control over the digital assets.

27   6.   a.   "Node" means a computational device that:

28   (1)   Communicates with other devices or participants on a blockchain to

29   maintain consensus and integrity of that blockchain;

30   (2)   Creates and validates transaction blocks; or

31   (3)   Contains and updates a copy of a blockchain.

1   b.   A node does not exercise discretion over transactions initiated by the end user of

2   the blockchain protocol.

3   7.   "Self-hosted wallet" means a digital interface used to:

4   a.   Secure and transfer digital assets; and

5   b.   Retain independent control over the secured digital assets by the owner of the

6   digital asset.

7   8.   "Staking" means committing digital assets to a blockchain network to participate in the

8   blockchain network's operations by validating transactions and securing the network.

9 **Prohibitions on use and testing of central bank digital currency.**

10   1.   A governing authority may not accept or require a payment using central bank digital

11   currency.

12   2.   A governing authority may not participate in any test of central bank digital currency by

13   the board of governors of the federal reserve system or any branch or agency of the

14   federal government.

15 **Permitted uses of digital assets.**

16 A governing authority may not prohibit, restrict, or otherwise impair the ability of an

17 individual or business to~~:~~

18 ~~1.~~   ~~Accept~~ accept digital assets as a method of payment for legal goods and services.

19 ~~2.~~   ~~Take custody of digital assets using a self-hosted wallet or hardware wallet.~~

20 **Access to blockchain protocols and transfer of digital assets.**

21 A person may:

22   1.   Operate a node for the purpose of connecting to a blockchain protocol and

23   participating in the blockchain protocol's operations.

24   2.   Develop software on a blockchain protocol.

25   3.   ~~Transfer digital assets to another person using a blockchain protocol.~~

26 ~~4.~~   Participate in staking on a blockchain protocol.

27   **SECTION 4.** A new section to chapter 58-03 of the North Dakota Century Code is created

28 and enacted as follows:

1   **Protection for digital asset mining.**

2   1.   An individual may not be prohibited, restricted, or otherwise prevented from

3   participating in digital asset mining in an area zoned for residential use if the individual

4   engaging in digital asset mining complies with all township noise ordinances.

5   2.   In an area zoned for commercial use, a township may not:

6   a.   Place a limit on sound decibels generated from a digital asset mining business

7   which is more restrictive than limits imposed for sound pollution in that area

8   generally.

9   b.   Place restrictions on a digital asset mining business which do not apply to other

10   businesses in that area.

11   c.   Change the zoning of a digital asset mining business without providing notice and

12   an opportunity for comment.

13   3.   A digital asset mining business may appeal a change in zoning to the district court.

14   4.   For purposes of this section:

15   a.   "Digital asset mining" means using computer hardware and software specifically

16   designed or used for the purpose of validating data and securing a blockchain

17   network.

18   b.   "Digital asset mining business" means an individual or company operating a

19   digital asset mining facility that cumulatively draws more than one megawatt of

20   power in the state.