

**HOUSE BILL NO. 1447**

Introduced by

Representatives Swiontek, Christy, Hanson, Heinert, Schauer, J. Olson, Richter

Senators Hogan, Klein, Lee, Rummel, Sickler

1 A BILL for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code,  
2 relating to virtual currency kiosks.

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

4 **SECTION 1.** A new chapter to title 6 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Definitions.**

7 In this chapter unless context requires:

- 8 1. "Blockchain analytics" means the analysis of data from blockchains or public  
9 distributed ledgers, including associated transaction information.
- 10 2. "Blockchain analytics software" means a software service that uses blockchain  
11 analytics data to provide risk-specific information about virtual currency wallet  
12 addresses.
- 13 3. "Commissioner" means the commissioner of financial institutions.
- 14 4. "New customer" means an individual who has never previously transacted with the  
15 virtual currency kiosk operator and for the first thirty days after the first financial  
16 transaction with the virtual currency kiosk operator.
- 17 5. "Transaction hash" means a unique identifier made up of a string of characters that act  
18 as a record and provide proof the transaction was verified and added to the  
19 blockchain.
- 20 6. "Virtual currency address" means an alphanumeric identifier associated with a virtual  
21 currency wallet identifying the location to which a virtual currency transaction can be  
22 sent.
- 23 7. "Virtual currency kiosk" means an electronic terminal acting as a mechanical agent of  
24 the virtual currency kiosk operator to enable the virtual currency kiosk operator to

1 facilitate the exchange of virtual currency for money, bank credit, or other virtual  
2 currency, including by:

3 a. Connecting directly to a separate virtual currency exchange that performs the  
4 actual virtual currency transmission; or

5 b. Drawing upon the virtual currency in the possession of the electronic terminal's  
6 operator.

7 8. "Virtual currency kiosk operator" means a person that engages in virtual currency  
8 business activity via a money transmission kiosk located in this state or a person that  
9 owns, operates, or manages a money transmission kiosk located in this state through  
10 which virtual currency business activity is offered.

11 9. "Virtual currency kiosk transaction" means a transaction conducted or performed, in  
12 whole or in part, by electronic means via a virtual currency kiosk. Virtual currency  
13 kiosk transaction also means a transaction made at a virtual currency kiosk to  
14 purchase virtual currency with fiat currency or to sell virtual currency for fiat currency.

15 10. "Virtual currency wallet" means a software application or other mechanism providing a  
16 means to hold, store, or transfer virtual currency.

17 **Virtual currency kiosks.**

18 1. A kiosk operator may not engage in virtual currency business activity or hold itself out  
19 as being able to engage in virtual currency business activity with or on behalf of  
20 another person unless the kiosk operator is licensed in this state as a money  
21 transmitter.

22 2. A virtual currency kiosk operator shall comply with all requirements of a money  
23 transmitter under chapter 13-09.1.

24 3. A virtual currency kiosk operator may not locate, or allow a third party to locate, a  
25 virtual currency kiosk in this state unless the virtual currency kiosk:

26 a. Is placed a commercially accessible area;

27 b. Is accessible to users with sufficient space to account for mobility limitations of  
28 users;

29 c. Is subject to security features, including sufficient lighting and surveillance; and

30 d. Complies with any additional restrictions or requirements as required by the  
31 commissioner.

- 1       4. Each virtual currency kiosk operator shall submit a quarterly report of the location of  
2       each virtual currency kiosk located within the state to the commissioner within forty-  
3       five days of the end of the calendar quarter. The location report must include:  
4       a. The company legal name;  
5       b. Any fictitious or trade name;  
6       c. The physical address;  
7       d. The start date of operation of the virtual currency kiosk at the location;  
8       e. The end date of operation of the virtual currency kiosk at the location, if  
9       applicable; and  
10      f. The virtual currency addresses associated with the virtual currency kiosk.

11      **Disclosures.**

- 12      1. A virtual currency kiosk operator shall disclose in a clear, conspicuous, and easily  
13      readable manner in the chosen language of the customer, all relevant terms and  
14      conditions generally associated with the products, services, and activities of the virtual  
15      currency kiosk operator and virtual currency.  
16      2. The virtual currency kiosk operator must receive acknowledgment of receipt of all  
17      disclosures required under this section via confirmation of consent.  
18      3. Each virtual currency kiosk must include a warning written prominently and in bold  
19      type, stating substantially the following form:  
20      a. WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A  
21      STRANGER WHO IS INITIATING A DISHONEST SCHEME. I UNDERSTAND  
22      THAT CRIMINAL ACTIVITY MAY APPEAR IN MANY FORMS, INCLUDING:  
23      (1) Claims of a frozen bank account or credit card.  
24      (2) Fraudulent bank transactions.  
25      (3) Claims of identity theft or job offerings in exchange for payments.  
26      (4) Requests for payments to government agencies or companies.  
27      (5) Requests for disaster relief donations or loans.  
28      (6) Offers to purchase tickets for lotteries, sweepstakes, or drawings for  
29      vehicles.  
30      (7) Prompts to click on desktop popups, such as virus warnings or  
31      communication from alleged familiar merchants.



- 1           h. The volatility and unpredictability of the price of virtual currency relative to fiat  
2           currency may result in a significant loss over a short period;
- 3           i. The nature of virtual currency means any technological difficulties experienced by  
4           virtual currency kiosk operators may prevent access to or use of an individual's  
5           virtual currency; and
- 6           j. Any bond maintained by the virtual currency kiosk operator for the benefit of an  
7           individual may not cover all losses an individual incurs.
- 8        5. The commissioner shall require disclosure of:
- 9           a. The amount of the transaction denominated in United States dollars as well as  
10          the applicable virtual currency;
- 11          b. Any fees or expenses charged by the virtual currency kiosk operator;
- 12          c. Any applicable exchange rates;
- 13          d. A daily virtual currency transaction limit of no more than one thousand dollars;
- 14          e. Notice of a change in the virtual currency kiosk operator's rules or policies;
- 15          f. The name, address, and telephone number of the owner of the kiosk and the  
16          days, time, means by which a consumer can contact the owner for consumer  
17          assistance. Any relevant state and local law enforcement agency for reporting  
18          fraud must be displayed on or at the location of the virtual currency kiosk or on  
19          the first screen of the kiosk;
- 20          g. Under what circumstances the virtual currency kiosk operator, without a court or  
21          government order, discloses a person's account information to third parties; and
- 22          h. Other disclosures customarily given in connection with a virtual currency  
23          transaction.
- 24        6. After the completion of each transaction, the virtual currency kiosk operator shall  
25          provide an individual with a physical receipt in the language chosen by the customer  
26          containing the following:
- 27           a. The virtual currency kiosk operator's name and contact information, including a  
28           telephone number to answer questions and register complaints;
- 29           b. Relevant state and local law enforcement or government agency for reporting  
30           fraud;

- 1           c. The type, value, date, and precise time of the transaction, transaction hash, and
- 2                 each applicable virtual currency address;
- 3           d. The name and contact information of the sender;
- 4           e. The name and contact information of the designated recipient;
- 5           f. All fees charged;
- 6           g. The exchange rate of the virtual currency to United States dollars;
- 7           h. A statement of the virtual currency kiosk operator's liability for nondelivery or
- 8                 delayed delivery;
- 9           i. A statement of the virtual currency kiosk operator's refund policy; and
- 10          j. Any additional information the commissioner may require.

11       **Prevention of fraudulent activity.**

- 12       1. A virtual currency kiosk operator shall use blockchain analytics software to assist in
- 13             the detection and prevention of suspicious activity, including sending purchased virtual
- 14             currency from a virtual currency kiosk operator to a virtual currency wallet known to be
- 15             affiliated with fraudulent activity at the time of a transaction and identifying patterns
- 16             that reflect money laundering or other illicit activity. The commissioner may request
- 17             evidence from any virtual currency kiosk operator of use of blockchain analytics.
- 18       2. A virtual currency kiosk operator shall take reasonable steps to detect and prevent
- 19             fraud, including establishing and maintaining a written antifraud policy. The antifraud
- 20             policy must include:
- 21             a. The identification and assessment of fraud-related risk areas;
- 22             b. Procedures and controls to protect against identified risks;
- 23             c. Allocation of responsibility for monitoring risks; and
- 24             d. Procedures for the periodic evaluation and revision of the antifraud procedures,
- 25                 controls, and monitoring mechanisms.
- 26       3. Each virtual currency kiosk operator shall designate and employ a compliance officer
- 27             with the following requirements:
- 28             a. The individual must be qualified to coordinate and monitor compliance with this
- 29                 chapter and all other applicable federal and state laws and rules;
- 30             b. The individual must be employed full-time by the virtual currency kiosk operator;
- 31                 and

1           c. The designated compliance officer may not be any individual who owns more  
2           than twenty percent of the virtual currency kiosk operator by whom the individual  
3           is employed.

4           4. Compliance responsibilities required under federal and state laws and rules must be  
5           completed by full-time employees of the virtual currency kiosk operator.

6           5. A virtual currency kiosk operator shall issue a refund to a new customer for the full  
7           amount of all transactions made within the thirty-day new customer time period on the  
8           request of the customer. To receive a refund under this section, a new customer must  
9           have been fraudulently induced to engage in the virtual currency transactions and  
10          shall contact the virtual currency kiosk operator and a government or law enforcement  
11          regarding the fraudulent nature of the transaction agency within ninety days of the last  
12          transaction to occur during the thirty-day new customer time period.

13          6. A virtual currency kiosk operator shall issue a refund to an existing customer for the  
14          full amount of all transaction fees upon the request of an existing customer. To receive  
15          a refund under this section, a customer must have been fraudulently induced to  
16          engage in the virtual currency transactions and shall contact the virtual currency kiosk  
17          operator and a government or law enforcement agency regarding the fraudulent  
18          nature of the transaction within ninety days of the transaction.

19          **Daily transaction limit.**

20          A virtual currency kiosk operator may not accept transactions of more than one thousand  
21          dollars of cash or the equivalent in virtual currency in a day in connection with virtual currency  
22          kiosk transactions with a single customer in this state via one or more virtual currency kiosks  
23          operated by the same virtual currency operator.

24          **Fee cap.**

25          The aggregate fees and charges, directly or indirectly, charged to a customer related to a  
26          single transaction or series of related transactions involving virtual currency charged through a  
27          money transmission kiosk in this state, including any difference between the price charged to a  
28          customer to buy, sell, exchange, swap, or convert virtual currency and the prevailing market  
29          value of the virtual currency at the time of the transaction, may not exceed the greater of five  
30          dollars or three percent of the dollar equivalent of virtual currency involved in the transaction or  
31          transactions.

1        **Customer service.**

2        A virtual currency kiosk operator performing business in this state shall provide live  
3 customer service at a minimum on Monday through Friday between eight a.m. central time and  
4 ten p.m. central time. The customer service toll free number must be displayed on the virtual  
5 currency kiosk or the virtual currency kiosk screens.