

**FIRST ENGROSSMENT  
with Senate Amendments**

**ENGROSSED 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 sections 13-09.1-50, 13-09.1-51, 13-09.1-52, 13-09.1-53,  
2 and 13-09.1-54 of the North Dakota Century Code, relating to virtual-currency kiosks; and to  
3 amend and reenact section 13-09.1-44 of the North Dakota Century Code, relating to virtual-  
4 currency kiosks.

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

6 **SECTION 1. AMENDMENT.** Section 13-09.1-44 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **13-09.1-44. Definitions.**

9 For the purposes of sections 13-09.1-44 through ~~13-09.1-49~~13-09.1-54, the following  
10 definitions apply:

- 11 1. "Blockchain analytics" means the analysis of data from blockchains or publicly  
12 distributed ledgers, including associated transaction information to provide risk-specific  
13 information about virtual-currency transactions and virtual currency addresses.
- 14 2. "Control of virtual currency", when used in reference to a transaction or relationship  
15 involving virtual currency, means the power to execute unilaterally or prevent  
16 indefinitely a virtual-currency transaction.
- 17 ~~2-3.~~ "Exchange", used as a verb, means to assume control of virtual currency from or on  
18 behalf of a person, at least momentarily, to sell, trade, or convert:
- 19 a. Virtual currency for money, bank credit, or one or more forms of virtual currency;  
20 or  
21 b. Money or bank credit for one or more forms of virtual currency.

- 1       4.   "Transaction hash" means a unique identifier made up of a string of characters that act  
2       as a record and provide proof the transaction was verified and added to the  
3       blockchain.
- 4       ~~3-5.~~ "Transfer" means to assume control of virtual currency from or on behalf of a person  
5       and to:
- 6       a.   Credit the virtual currency to the account of another person;  
7       b.   Move the virtual currency from one account of a person to another account of the  
8       same person; or  
9       c.   Relinquish control of virtual currency to another person.
- 10      ~~4-6.~~ "United States dollar equivalent of virtual currency" means the equivalent value of a  
11      particular virtual currency in United States dollars shown on a virtual-currency  
12      exchange based in the United States for a particular date or period specified in this  
13      chapter.
- 14      ~~5-7.~~ "Virtual currency":
- 15      a.   Means a digital representation of value that:
- 16          (1)  Is used as a medium of exchange, unit of account, or store of value; and  
17          (2)  Is not money, whether or not denominated in money; and
- 18      b.   Does not include:
- 19          (1)  A transaction in which a merchant grants, as part of an affinity or rewards  
20          program, value that cannot be taken from or exchanged with the merchant  
21          for money, bank credit, or virtual currency; or  
22          (2)  A digital representation of value issued by or on behalf of a publisher and  
23          used solely within an online game, game platform, or family of games sold  
24          by the same publisher or offered on the same game platform.
- 25      8.   "Virtual-currency address" means an alphanumeric identifier associated with a  
26      virtual-currency wallet identifying the location to which a virtual-currency transaction  
27      may be sent.
- 28      ~~6-9.~~ "Virtual-currency administration" means issuing virtual currency with the authority to  
29      redeem the currency for money, bank credit, or other virtual currency.
- 30      ~~7-10.~~ "Virtual-currency business activity" means:

- 1 a. Exchanging, transferring, or storing virtual currency or engaging in virtual-  
2 currency administration, whether directly or through an agreement with a virtual-  
3 currency control-services vendor;
- 4 b. Holding electronic precious metals or electronic certificates representing interests  
5 in precious metals on behalf of another person or issuing shares or electronic  
6 certificates representing interests in precious metals; or
- 7 c. Exchanging one or more digital representations of value used within one or more  
8 online games, game platforms, or family of games for:
- 9 (1) Virtual currency offered by or on behalf of the same publisher from which  
10 the original digital representation of value was received; or
- 11 (2) Money or bank credit outside the online game, game platform, or family of  
12 games offered by or on behalf of the same publisher from which the original  
13 digital representation of value was received.
- 14 ~~8-11.~~ "Virtual-currency control-services vendor" means a person that has control of virtual  
15 currency solely under an agreement with a person that, on behalf of another person,  
16 assumes control of virtual currency.
- 17 12. "Virtual-currency kiosk" means an electronic terminal acting as a mechanical agent of  
18 the virtual-currency kiosk operator to enable the virtual-currency kiosk operator to  
19 facilitate the exchange of virtual currency for money, bank credit, or other virtual  
20 currency, including by:
- 21 a. Connecting directly to a separate virtual-currency exchange that performs the  
22 actual virtual-currency transmission; or
- 23 b. Drawing upon the virtual currency in the possession of the electronic terminal's  
24 operator.
- 25 13. "Virtual-currency kiosk operator" means a person that operates a virtual currency kiosk  
26 in this state.
- 27 14. "Virtual-currency kiosk transaction" means:
- 28 a. A transaction conducted or performed, in whole or in part, by electronic means  
29 via a virtual-currency kiosk.
- 30 b. A transaction made at a virtual-currency kiosk to purchase virtual currency with  
31 fiat currency or to sell virtual currency for fiat currency.

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

3       **SECTION 2.** Section 13-09.1-50 of the North Dakota Century Code is created and enacted  
4 as follows:

5       **13-09.1-50. Virtual-currency kiosks.**

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

10      2. A virtual-currency kiosk operator shall comply with all requirements of a money  
11         transmitter under this chapter.

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

14         a. Is placed in a commercially accessible area;

15         b. Is accessible to users with sufficient space to account for mobility limitations of  
16            users; and

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

18      4. Each virtual-currency kiosk operator shall submit a quarterly report of the location of  
19         each virtual-currency kiosk located within the state to the commissioner within  
20         forty-five days of the end of the calendar quarter. The location report must include:

21         a. The company's legal name;

22         b. Any fictitious or trade name;

23         c. The physical address;

24         d. The start date of operation of the virtual-currency kiosk at the location;

25         e. The end date of operation of the virtual-currency kiosk at the location, if  
26            applicable; and

27         f. The virtual-currency addresses associated with the virtual-currency kiosk.

28      **SECTION 3.** Section 13-09.1-51 of the North Dakota Century Code is created and enacted  
29 as follows:

1        **13-09.1-51. Disclosures.**

2        1. A virtual-currency kiosk operator shall disclose in a clear, conspicuous, and easily  
3        readable manner in the chosen language of the customer, all relevant terms and  
4        conditions generally associated with the products, services, and activities of the  
5        virtual-currency kiosk operator and virtual currency.

6        2. The virtual-currency kiosk operator must receive acknowledgment of receipt of all  
7        disclosures required under this section via confirmation of consent.

8        3. Each virtual-currency kiosk must include a warning written prominently and in bold  
9        type, stated in substantially the following form:

10       a. WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A  
11       STRANGER WHO IS INITIATING A DISHONEST SCHEME. I UNDERSTAND  
12       THAT CRIMINAL ACTIVITY MAY APPEAR IN MANY FORMS, INCLUDING:

13       (1) Claims of a frozen bank account or credit card.

14       (2) Fraudulent bank transactions.

15       (3) Claims of identity theft or job offerings in exchange for payments.

16       (4) Requests for payments to government agencies or companies.

17       (5) Requests for disaster relief donations or loans.

18       (6) Offers to purchase tickets for lotteries, sweepstakes, or drawings for  
19       vehicles.

20       (7) Prompts to click on desktop popups, such as virus warnings or  
21       communication from alleged familiar merchants.

22       (8) Communication from someone impersonating a representative of your bank  
23       or a law enforcement officer.

24       (9) IF YOU BELIEVE YOU ARE BEING SCAMMED, CALL A LOCAL LAW  
25       ENFORCEMENT OFFICER BEFORE ANY TRANSACTION.

26       b. WARNING: FUNDS LOST DUE TO USER ERROR OR FRAUD MAY NOT BE  
27       RECOVERABLE. TRANSACTIONS CONDUCTED ON THIS  
28       VIRTUAL-CURRENCY KIOSK ARE IRREVERSIBLE. I UNDERSTAND THESE  
29       RISKS AND WISH TO CONTINUE WITH CONDUCTING MY  
30       VIRTUAL-CURRENCY KIOSK TRANSACTION. PROTECT YOURSELF FROM  
31       FRAUD. NEVER SEND MONEY TO SOMEONE YOU DO NOT KNOW.

- 1       4. The commissioner shall require the disclosure of material risks associated with virtual  
2       currency and virtual-currency transactions, including:  
3       a. The transaction may not be reversed;  
4       b. The virtual-currency kiosk operator's liability for unauthorized virtual currency  
5       transactions;  
6       c. The virtual-currency kiosk customer's liability for unauthorized currency  
7       transactions;  
8       d. Virtual currency is not legal tender, backed or insured by the government, and  
9       accounts and value balances are not subject to federal deposit insurance  
10       corporation, national credit union administration, or securities investor protection  
11       corporation protections;  
12       e. Some virtual currency transactions are deemed to be made when recorded on a  
13       public ledger which may not be the date or time when the individual initiates the  
14       transaction;  
15       f. Virtual currency's value may be derived from market participants' continued  
16       willingness to exchange fiat currency for virtual currency, which may result in the  
17       permanent and total loss of a particular virtual currency's value if the market for  
18       virtual currency disappears;  
19       g. An individual who accepts a virtual currency as payment today is not required to  
20       accept and might not accept virtual currency in the future;  
21       h. The volatility and unpredictability of the price of virtual currency relative to fiat  
22       currency may result in a significant loss over a short period;  
23       i. The nature of virtual currency means any technological difficulties experienced by  
24       virtual-currency kiosk operators may prevent access to or use of an individual's  
25       virtual currency; and  
26       j. Any bond maintained by the virtual-currency kiosk operator for the benefit of an  
27       individual may not cover all losses an individual incurs.  
28       5. The commissioner shall require disclosure of:  
29       a. The amount of the transaction denominated in United States dollars as well as  
30       the applicable virtual currency.  
31       b. Any fees or expenses charged by the virtual-currency kiosk operator.

- 1           c. Any applicable exchange rates.
- 2           d. A daily virtual-currency transaction limit of no more than two thousand dollars per  
3           day.
- 4           e. Notice of a change in the virtual-currency kiosk operator's rules or policies.
- 5           f. The name, address, and telephone number of the owner of the kiosk and the  
6           days, time, and means by which a consumer may contact the owner for  
7           consumer assistance. Any relevant state and local law enforcement agency for  
8           reporting fraud must be displayed on or at the location of the virtual-currency  
9           kiosk or on the first screen of the kiosk.
- 10          g. Under what circumstances the virtual-currency kiosk operator, without a court or  
11          government order, discloses a person's account information to third parties.
- 12          h. Other disclosures customarily given in connection with a virtual currency  
13          transaction.
- 14          6. After the completion of each transaction, the virtual-currency kiosk operator shall  
15          provide an individual with a choice of a physical or digital receipt secured with  
16          two-factor identification in the language chosen by the customer containing the  
17          following:
- 18           a. The virtual-currency kiosk operator's name and contact information, including a  
19           telephone number to answer questions and register complaints;
- 20           b. The relevant state and local law enforcement or government agency for reporting  
21           fraud;
- 22           c. The type, value, date, and precise time of the transaction, transaction hash, and  
23           each applicable virtual-currency address;
- 24           d. A unique transaction number able to be linked to the sender during a fraud  
25           investigation;
- 26           e. A unique transaction number able to be linked to the designated recipient during  
27           a fraud investigation;
- 28           f. All fees charged;
- 29           g. The exchange rate of the virtual currency to United States dollars;
- 30           h. A statement of the virtual-currency kiosk operator's liability for nondelivery or  
31           delayed delivery; and

1           i. A statement of the virtual-currency kiosk operator's refund policy.

2           **SECTION 4.** Section 13-09.1-52 of the North Dakota Century Code is created and enacted  
3 as follows:

4           **13-09.1-52. Prevention of fraudulent activity.**

5           1. A virtual-currency kiosk operator shall use blockchain analytics software to assist in  
6 the detection and prevention of suspicious activity, including sending purchased virtual  
7 currency from a virtual-currency kiosk operator to a virtual-currency wallet known to be  
8 affiliated with fraudulent activity at the time of a transaction and identifying patterns  
9 that reflect money laundering or other illicit activity. The commissioner may request  
10 evidence from any virtual-currency kiosk operator of use of blockchain analytics.

11          2. A virtual-currency kiosk operator shall take reasonable steps to detect and prevent  
12 fraud, including establishing and maintaining a written antifraud policy. The antifraud  
13 policy must include:

14           a. The identification and assessment of fraud-related risk areas;

15           b. Procedures and controls to protect against identified risks;

16           c. Allocation of responsibility for monitoring risks; and

17           d. Procedures for the periodic evaluation and revision of the antifraud procedures,  
18 controls, and monitoring mechanisms.

19          3. Each virtual-currency kiosk operator shall designate and employ a compliance officer  
20 with the following requirements:

21           a. The individual must be qualified to coordinate and monitor compliance with this  
22 chapter and all other applicable federal and state laws and rules;

23           b. The individual must be employed full-time by the virtual-currency kiosk operator;  
24 and

25           c. The designated compliance officer may not be an individual who owns more than  
26 twenty percent of the virtual-currency kiosk operator by whom the individual is  
27 employed.

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



- 1        5. A virtual-currency kiosk operator shall maintain, implement, and enforce a written  
2        enhanced due diligence policy. The policy must be reviewed and approved by the  
3        virtual-currency kiosk operator's board of directors or equivalent governing body.
- 4        6. A virtual-currency kiosk operator shall designate and employ a consumer protection  
5        officer. The consumer protection officer:
- 6            a. Must be qualified to coordinate and monitor compliance with state and federal  
7            law;
- 8            b. Must be employed full-time by the virtual-currency kiosk operator; and
- 9            c. May not own more than twenty percent of the virtual-currency kiosk operator.

10        **SECTION 5.** Section 13-09.1-53 of the North Dakota Century Code is created and enacted  
11 as follows:

12        **13-09.1-53. Daily transaction limit.**

13        A virtual-currency kiosk operator may not accept transactions of more than two thousand  
14 dollars of cash or the equivalent in virtual currency per calendar day with a single customer in  
15 this state via one or more virtual-currency kiosks operated by the same virtual-currency  
16 operator.

17        **SECTION 6.** Section 13-09.1-54 of the North Dakota Century Code is created and enacted  
18 as follows:

19        **13-09.1-54. Customer service.**

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