

North Dakota House Industry, Business and
Labor Committee
Room JW327C
North Dakota State Capitol
Bismark, ND 58505

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Thank you Chairman and Members of the Industry, Business and Labor Committee, I am Ethan McClelland, the Director of Government Relations at Bitcoin Depot, the largest operator of cryptocurrency kiosks in the world. Thank you for your time and affording me the opportunity to speak about our perspective on HB 1447.

Our business model is that we place our kiosks into retail centers such as gas stations and convenience stores; renting that space from small businesses. A customer inserts cash into the kiosk following a thorough review of their identity and checking against suspicious activity, is able to purchase bitcoin and transfer it to their digital wallet, where they are sole owners of that bitcoin.

Our kiosks are placed in a wide variety of neighborhoods in North Dakota. Our customers include the underbanked and unbanked, as well as those who work in cash-heavy businesses such as trades, construction, or service industries and wish to participate in the cryptocurrency market. They value the physical presence of kiosks versus utilizing an online exchange, as well as the ability to outright own cryptocurrency, rather than exposing themselves to the risks associated with the collapse of an exchange, as we saw in the case of FTX. Individuals who have used our services have self-designated that the primary purpose for purchasing bitcoin is sending funds to family members abroad, online payments and purchases, remittances and money transfers, and investment or store of value.

There are many provisions in HB 1447 that we support and in nearly every case, are already doing such as, requiring kiosk companies who wish to do business in North Dakota to follow a rigorous licensing program, requiring clear disclosures ranging from the risks involved in the cryptocurrency market to clearly displayed anti-fraud warnings, as well as building a mature compliance program, to include the use of third party blockchain analytics.

However, we have serious concerns with provisions in HB 1447 that would effectively prevent kiosk companies from doing business in North Dakota because of the overly aggressive nature of the limits on daily transactions, as well as the unreasonably low fee cap provision. In essence, HB 1447 in its current form would drive our business from North Dakota.

Placing permanent or long-term transaction limits have unintended consequences including leading criminals to skirt federal reporting requirements. For example, the Financial Crimes Enforcement Network, or FinGen, requires companies to submit Suspicious Activity Reports on potential scams or questionable transactions for any transaction flagged that is above \$2000. They then transmit this information to law enforcement to combat local scam activity. Fincen lacks the resources to process reports below \$2000 and does not allow SAR filings below that threshold. In essence, a \$1000 transaction limit would deny North Dakota law enforcement valuable data on how to combat scams. Furthermore, transaction limits encourage both good and bad actors to spread transactions across multiple kiosk operators, further hiding scam and illicit activity. And, legitimate customers choosing to use alternate banking methods such as

kiosks should not suffer additional “taxation” in the form of “kiosk-shopping” to multiple locations to complete necessary transactions.

Operating a cryptocurrency kiosk has unique costs, including purchasing, installing, and maintaining the kiosk equipment. There are also recurring costs, including rent to small businesses hosting a kiosk, insurance, legal fees, bank fees, blockchain access fees, cash management, armored vehicles, monitoring and surveillance, BSA / AML / OFAC compliance, cybersecurity, fraud detection, and live customer support. Exchanges that custody funds do not have the hardware costs that kiosk operators maintain. Other financial service companies that hold funds can assess fees in multiple touchpoints during the relationship; we cannot. And bad kiosk operators who may charge lower fees do not maintain strong compliance and consumer safeguards. The current proposed fee cap of 3% would be the lowest in the country. What we have seen in states with low transaction limits such as California is legitimate “good” operators such as ourselves leave the state because of a lack of profit, while “bad” operators remain, skirting the already thin enforcement resources of the Department, meaning scam activity remains.

We are proud of the company we have built and the steps we have taken to balance innovation with security and the safety of our customers. We are willing to work with the committee to continue to hone HB 1447 into legislation we can support that fosters innovation, protects consumers and allows business to thrive. Unfortunately, in its current form, we feel that HB 1447 regrettably falls short of that goal. In order to allow that conversation to continue, I would ask that the committee vote to not send it to the full house at this time. We appreciate your time, and welcome any questions and the opportunity to continue the conversation.