

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1268

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1268

2/8/2021

AM

Financial technology sandbox program for innovative financial products & services & criminal history background checks

(9:01) Chairman Lefor called the hearing to order.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Discussion Topics:

- Banking & finance technology hub (Sandbox).
- Digital asset technology & regulation.

Rep Toman~District 34 introduced the bill.

Blair Thorson~Representing the Block Chain Industry introduced Trent Pool.

Trent Pool~Block Chain Foundation. Attachment #5788.

William Pete~CEO-Energy Ledger. Attachment #5794.

Jason Bohrer~President-Lignite Energy Council. Testified in support.

Christopher Allen~Blockchain Commons. Attachment #5786.

Brock Pierce~Chairman-Bitcoin Foundation. Attachment #5792.

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Andrew Durgee~Head of Blockchain-Republic. Attachment #5810.

Karen Tyler~Securities Commissioner. Attachment #5805.

Lisa Kruse~Commissioner. Attachment #5751.

Chairman Lefor closed the hearing.

Additional written testimony: Attachments #5781, 5796, 5798, 5799, 5803, 5806, 5808, 5812, 5817 & 5819.

(10:57) End time.

Ellen LeTang, Committee Clerk

Trent Pool
Blockchain Center Foundation
Policy Director
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HB 1268

Blockchain Technology is one of the greatest advancements since the internet and distributed immutable ledgers will be the standard backend for commerce in the future and all things dealing with custodian ship or transfer of title – including contracts will be at some point in the future done with Blockchain technology. It is imperative that North Dakotans begins the process of encouraging technology and innovation in general- joining its neighbor Wyoming which has begun the Crypto Corridor which has brought over 20B dollars to the state of Wyoming and thousands of companies since the legislature began passing these bills in 2018.

As someone who has spent my whole professional career in politics after graduating from SMU in TX with a Geology degree I can tell you that the implications for the technology are vast. There is so much that can be done with this technology other than financial technology!! We can build voting infrastructure, can allow electronic signatures for petitions to be validated through Blockchain technology and can also store and harbor voting tech as well as provide a lot of the government database and custodianship/clearinghouse needs that are currently done with less secure and less efficient systems. North Dakota also has the cheapest electricity in the USA- it would be great to see the lignite energy council and other energy stakeholders explore mining of Bitcoin with abatements for companies that do.

The Blockchain Center in New York has been educating folks around the World since 2013 and is available 24/7 to suit any educational needs you guys may need. We would love to help empower you to fully understand this tech so that North Dakotans are well poised for innovations and the future of technology.

HB 3024

Crypto Banking is a great way to get investments immediately in the State of North Dakota. The Digital Asset Class is over 1 Trillion dollars with many of these folks looking for places to harbor their resources and repatriate their money back into the USA. Passing bills and running studies like this will lead to passing laws like Wyoming which now has brought the Special Purpose Depository Institution Banking bill that has brought many multi-billion dollar firms into Cheyenne to begin non-commercial fully reserved lending in the state. I strongly encourage this study and hope that North Dakota passes this resolution unanimously and gets involved in protecting Digital Asset ownership and allows for Crypto Banking.

Sincerely,
Trent Pool

NORTH DAKOTA BAKKEN SHALE

William Pete - Testimony

FinTech Sandbox Opportunity

2/7/2021

My name is William Pete and I have been a blockchain researcher and tech enthusiast for years. I recently graduated with my Masters in Business Administration from Capella University in Minnesota. I also had the honor of NASA JPL naming an asteroid after me - 22786 Willipete. I have a patent for a blockchain technology in the oil and gas industry and have worked for close to 3 years on building a tech platform that seeks to allow an alternative use for crude oil as a store of value on a blockchain. This strategy offers a unique approach for my company Energy Ledger Inc. which seeks to provide a public blockchain for transparent energy transactions on the blockchain. This approach is incredibly important to the financial future of North Dakota and would allow the development of a banking and financial technology hub - extending Minnesota's already existing 'Silicon Prairie' westward. I am confident that there is a promising future for North Dakota's local economy within the technology space. Through providing a 'Blockchain Corridor' as outlined in this recent legislature - I believe that there is a chance that this area grows prolifically as a haven for technologies such as Blockchain to develop in tandem with established industries such as Oil & Gas.

There are a plethora of blockchain data companies including Energy Ledger, Data Gumbo, and Ondiflo which are building solutions utilizing this technology. The benefit of being next to abundant oil reserves and infrastructure is one of the most important factors for these companies to be able to implement cost savings, raise bottom lines, and ultimately bringing more value to the oil & gas industry through the commoditization of data. Through data acting as a commodity in and of itself - the highest value possible can be positioned on these commodities and their existence in storage for generations to come.

Almost every major oil & gas company has joined the Blockchain for Energy Coalition (<https://www.blockchainforenergy.net/>), including Chevron, Exxon, Shell, ConocoPhillips, and Equinor - with a \$6 million dollar investment from Equinor being made in blockchain company

Data Gumbo. Through North Dakota opening its doors to startups in the Energy Industry through an 800K investment in a FinTech sandbox - it is possible to attract companies like mine and others to headquarter in North Dakota. This will herald a new era in the Bakken Shale formation's history where tech startups with lasting longevity will lay down roots in this area in attempt to market the data generated from drilling operations and geological surveys. Many of these companies will spend their money here, build new infrastructure, and hire talent from other areas to move to the area.

I personally believe that there is also a larger scope than just Energy companies who may be interested in this region as well. Many blockchain and cryptocurrency startups will be looking for a location that provides clear guidance, opportunity, and regulatory structure for their startup. Growing up in the midwest I have become well acquainted with the challenges and more than often - the shortcomings of not being able to attract the right talent to a certain area. With respect to Blockchain - I can confidently say if **House Bill 1268 & Concurrent Resolution 3024** are passed within the state of North Dakota, there will be an almost definite influx of technologies companies looking to headquarter their operations and do business here.

Decentralized Identity &
Blockchain Architect

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February 7, 2021

TO: North Dakota Legislators & Staff:

My name is Christopher Allen, and I am the founder of Blockchain Commons, a blockchain infrastructure development and research organization. My past achievements include being co-author of SSL/TLS, the broadest deployed security standard in the world, and the basis upon which most Internet traffic moves securely. More recently I am Invited Expert to the W3C international standards organization and the former co-chair of the W3C Credentials Community Group working toward broader international standards around digital identity, digital civil liberties, and personal privacy.

I am a big supporter of innovation by limiting Government regulation of emerging marketplaces and technologies until they mature. Thus I recommend the passage of HB 1268 "sandbox" legislation which will allow for North Dakotans to explore digital asset and blockchain technologies to enable innovative financial applications.

I supported similar legislation in Wyoming in 2017, and have been a regular contributor and legislative advisor to their Select Committee on Blockchain since. I am quite proud to witness Wyoming become a leader in the digital asset technology & regulation resulting in over \$10B to the Wyoming economy. Despite residing in California, it is because of these new Wyoming digital asset laws that I established my organization Blockchain Commons to be domiciled in Wyoming and have encouraged other technology companies to do the same.

I also encourage the North Dakota legislature to create a digital asset friendly corridor aligned with Wyoming, and outside of the coasts, to help bring more prosperity and forward thinking policies that will help not only North Dakotans but influence the entire US.

Thank you for the opportunity to show my support for HB 1268. Let me know if you need more details about my support or if there are other ways I can be of service to your community.

Regards,



Christopher Allen

Brock Pierce
Chairman- Bitcoin Foundation
brock@percival.vc

FB 1268

Good Afternoon North Dakota, I am both excited and grateful to be here with you.

I am Brock Pierce, from Minneapolis, Minnesota, born and raised. My mother was a minister and father worked in construction. I began my career early as a child-actor, making movies like The Mighty Ducks and First Kid. At 16, I believed the internet would change the world and that inspired me to become an entrepreneur.

I have co-founded, advised, and funded over 100 companies. In 2014 I put the U.S. dollar on the Blockchain when I co-founded Tether. Tether is the #1 most traded cryptocurrency with an annual trading volume of over \$10 Trillion.

As a technologist and innovator, I have created the first major marketplace for virtual goods in online gaming, which is expected to grow to \$190B by 2025. As a pioneer in Blockchain and digital currency, I was integral to the development of the first Initial Coin Offerings (ICO), providing a revolutionary way to fund and launch digital currencies. Additionally, as a founder of Blockchain Capital, I helped develop the STO, security token offering, to further secure investments in digital currency. Blockchain-based and digital currencies that I have co-founded include EOS, Stablecoin and Tether, the latter of which surpassed Bitcoin with a daily trading volume of over \$21 billion. My revolutionizing innovations in Blockchain technology and online gaming have led to the development of entirely new industries, resulting in the creation of new jobs, marketplaces and wealth for millions of Americans.

For the past five years, I have been Chairman of the Bitcoin Foundation - the largest and oldest digital asset education center in the world. On behalf of the foundation, I have been traveling the world for many years speaking on the transformative value blockchain technology.

It's Imperative that we recognize that the \$800,000 fiscal note is minuscule in comparisons to the benefits North Dakotans can obtain, both, in the short and long term.

I strongly believe that North Dakotans participating in the development & expansion of the blockchain industry which Wyoming has begun will build thousands of high paying jobs and generate tens of millions if not billions of dollars for the State of North Dakota. Which is why I am here to testify IN FAVOR of passing HB 1268.

First, From a national and global macroeconomic perspective, China is leading the world in digital asset engineering across many industries and the USA is falling behind. What is imperative is that individual states lead the effort. I strongly believe that North Dakota must be one of the states to both, ensure and sustain America's economic and technological preeminence.

Secondly, The Energy Sector is undergoing rapid changes to accommodate the increasing volume of consumption here in America and across the world. There is not place better to incorporate a fintech sandbox than the largest oil and gas reserves in USA. The merger of tech innovation and industry will enable America to be a steadfast leader in the digital age for decades to come.

The Blockchain technical corridor is already building and it is imperative that we join neighboring states in leading this effort. As someone who has amassed billions in capitol and created many businesses around the world, I can testify that an \$800,000 cost to the state may is nothing in comparison to the gains attained in relatively short time.

Thank you for the opportunity to address you, it's been a tremendous pleasure.

HCR 3024

Bitcoin has proven to be the top performing asset of the last decade and the best of 2020. Bitcoin has a market capitalization of 600B+ that places it in the list of top 10 of countries If it were its own country.

A tremendous number of large-scale companies are moving into the digital asset and cryptocurrency space - PayPal, JP Morgan, Starbucks. Through consortiums and the assistance of top tier corporate strategy consulting firms, such as the Boston Consulting Group, well-established FDIC-based banks are implementing blockchain technology.

I am in favor of HCR 3024 In support for a resolution studying special purpose depository institutions for cryptocurrency to encourage competition and financial innovation, controlling the risks and preventing them from affecting the end consumer. Fintech startups make progress in their processes, complying little by little with all regulations, until they finally reach the end of the road and transition out of this testing environment to compete with regular financial institutions, now without a safety net.

This resolution will enable the development of an appropriate sandbox, a mechanism for developing regulation that keeps up with the fast pace of innovation in a way that does not smother the fintech sector with rules, but also doesn't diminish consumer protection, for the State of North Dakota.

Sincerely,

Brock Pierce

HB 1268

My name is Andrew Durgee, I am currently the Head of Blockchain at Republic and was a pioneer in multisignature security for blockchain back in 2011, 2012, and 2013. I have been actively involved in blockchain technology innovation for over a decade. Being the Head of Blockchain at Republic, I am in a unique position to help direct the industry as a whole with both technology development and government guidance. HB 1268 will allow North Dakota the ability to further explore an innovation stack that counties to gain traction globally with no sense of slowing. It's entirely possible that a significant portion of future FinTech relies entirely on blockchain solutions. Other cities and states such as Miami and Wyoming are already positioning themselves as cornerstones of the industry and have this been seeing the benefits of that position, there seems to be an incredible opportunity for North Dakota to also find themselves cultivating similar benefits. I highly recommend passing HB 1268 to help propel North Dakota into the future of FinTech and help lay a foundation that could very well be the bedrock of the US financial future.

HB 1268**Testimony of Securities Commissioner Karen Tyler****Before House Industry, Business and Labor****February 8, 2021****In Opposition****Comment on Amendment**

HB 1268 appears to be modeled after the Wyoming Fintech Sandbox legislation (WY HB 0057). Because of this close modeling, the Secretary of State was included in the oversight responsibilities of the sandbox structure created by this bill. A very significant difference between Wyoming and North Dakota that was not adjusted for in the bill drafting process is that, while in WY the Secretary of State is a financial regulator with oversight of the investment industry, in ND the Secretary of State is not a financial regulator. This bill as originally drafted inadvertently or unintentionally created new financial regulatory authority for the Secretary of State. Accordingly, the distinction was brought to Rep. Toman's attention and addressed.

United Kingdom Financial Conduct Authority Fintech Sandbox

The concept of a fintech regulatory sandbox was first introduced, and ultimately launched by, the United Kingdom Financial Conduct Authority in 2016, and the first cohort of company participants was approved in 2017. The Financial Conduct Authority has extensive regulatory authority in the United Kingdom. The FCA's scope of authority would be largely comparable to combining the authority

of the SEC, FINRA, CFTC, CFPB, OCC, state insurance regulation, and the non-depository authority of state bank regulators.

The FCA's sandbox concept and initiative has captured the attention of lawmakers and regulators in the United States. Notably, a primary driver of the UK fintech sandbox participation and success is that it resides at the federal level, with this vast portfolio of regulatory power behind it. It is a difference or distinction that should not be overlooked when contemplating this trend of launching a sandbox environment in the United States on a state by state basis.

Limited application of state securities regulation to sandbox companies

One of the selling points of launching a sandbox has been the idea that regulations are too burdensome for start-up financial technology companies, and a sandbox allows innovators to experiment with new products and services within some guard rails, but without the heavy hand of regulation weighing them down.

Specific to the regulation of investment related fintech companies, if there is concern about the burden imposed on a start-up company, a state level sandbox may not lighten that load. I think it is important to understand that for most companies seeking to engage in a business that involves offering and selling investment securities and/or investment advice to investors – examples would be a brokerage app like Robinhood, or a robo-adviser app like Betterment - the regulatory starting point for this type of company will be at the federal level with the Securities and Exchange Commission, and a state level sandbox has no impact on that requirement.

The only area of investment industry regulation over which states have exclusive jurisdiction is the small investment advisory firm. These are advisory firms that

have less than \$100 million of assets under management and are exclusively advisory firms, and they do not offer brokerage services.

So as a threshold matter, the universe of securities and investment related applicants to a sandbox that a state securities regulator would have exclusive authority over, and could waive certain regulatory requirements for, is going to be quite limited.

Risk Exposure for the Investor

In a securities transaction, it is the investor who carries the risk. Whether investment advice is given or a stock trade is placed by a financial professional in a brick and mortar office, or through an algorithm based robo-adviser or an app based trading platform, and whether the record of a securities transaction is electronic or resides on a blockchain, the risk of owning that investment is carried by the investor. As such, protections afforded through securities regulation should never be marginalized regardless of how investors access investment services.

Facilitating an Uneven Playing Field

To the extent there would be applicants to the sandbox seeking to test new technologies related to investment products and services, the clients and assets the fintech start up would need to attract in order to engage in testing would likely come from fully regulated banks, broker-dealers and investment adviser firms. It seems incongruous for regulators to be involved in influencing competitive conditions and facilitating the movement of assets from a fully regulated to a less regulated environment, especially given the investor's risk exposure in a securities transaction.

In a report released in the UK last year related to their sandbox initiative, one concern raised by the fintech industry is that companies that are approved to participate in the sandbox structure may have a competitive advantage in attracting customers and capital because the sandbox approval is perceived as a badge of honor or regulators' endorsement.

Growth of Fintech Utilization – New Risks

For a variety of reasons financial technology has figured prominently in the changes we have encountered in this country throughout the last year. The number of new investors participating in our equity markets increased dramatically in 2020. One recently released study puts the number of new brokerage accounts opened in 2020 at 10 million. On the upside, innovations by fintech companies have expanded economic inclusion, and democratized access to financial services, but on the downside, fintech innovation has also created new risks.

A very visible example of the risks presented by fintech innovation has taken center stage over the last few weeks with the activity we have seen related to GameStop stock and stock trading apps like Robinhood.

While some of these issues were already being examined by regulators, and not all of these issues are unique to an online or app-based trading platform, risks related to gamified features, push notifications, payment for order flow, no limits on acct openings, trading technology system failures, behavior influencing content, capital requirement stress, inability to enforce policies on options trading – these are all issues that regulators will be examining in the wake of this market event.

Regulatory Resource Allocation – Position for Innovation and Impact

Rather than devoting resources to stand up this new regulatory structure as presented in HB 1268, a pragmatic and impactful approach to supporting innovators is to equip regulators to innovate along with the industry. Devote resources instead to the existing regulatory structure in order to attract talent and build the skills and expertise to better understand and work with new fintech innovations and business models, and help innovators operate in a compliant manner.

This is the approach that has been utilized at the federal level in the United States with the Securities and Exchange Commission launching their fintech hub (FinHub), the CFTC launching their fintech lab (LabCFTC), and FINRA establishing an innovation outreach initiative. Last session, here in North Dakota the legislature approved an additional FTE for our department to hire a fintech analyst and examiner.

Resources will be better deployed if applied to supporting and regulating innovators under our existing structure, instead of administering a new government program.

Progress and Future State

Much has changed in the last 4 years since the launch of the first fintech sandbox. Regulators have worked to address fintech industry concerns about regulatory uncertainty or confusion about what regulations apply. Both through regulatory guidance and enforcement work, much more clarity has been brought to the digital asset securities space for example.

Additionally, simply because a company is considered to be or calls itself a financial technology entity, does not mean that it is difficult to identify what regulatory structure applies to it. Here in the United States we have a system of Functional Regulation that makes this analysis largely straightforward. While there may be some outliers, the *function* of the financial product or service – e.g., insurance, banking, money transmission, investment securities, creates a clear path to the applicable regulator, regardless of how the product or service is packaged and delivered.

And finally, where regulatory gaps or uncertainties do remain, it can reasonably be expected that more action will be taken on the federal level under the current administration, actions that may render state level initiatives obsolete.



MEMORANDUM

DATE: February 8, 2021
TO: House Industry, Business and Labor Committee
FROM: Lise Kruse, Commissioner
SUBJECT: Testimony Regarding House Bill No. 1268

Chairman Lefor and members of the House Industry, Business and Labor Committee, thank you for the opportunity to testify regarding House Bill No. 1268.

Mr. Chairman and members of the Committee, our Department is for technology and innovation, and is very engaged on this topic on a national level. However, the Department opposes House Bill No. 1268 since it creates a new regulatory regime, which does not bring enough positive results to outweigh the costs. Since creating a Fintech Sandbox would have a significant impact on our Department's ability to meet our existing mission, I want to highlight issues that need additional consideration.

After this bill was introduced, I had the privilege of visiting with Rep. Toman, the main sponsor of this bill, and I appreciate Rep. Toman's intention of making sure that North Dakota does not fall behind or in any way inhibit innovation,

particularly when it comes to financial services and products. As I mentioned to Rep. Toman, our Department is always closely following the financial marketplace and are constantly looking for ways to make sure we are modernizing to allow for new innovation and technology without compromising consumer confidence in the financial products they use. Our Department charters 64 banks, 20 credit unions and has issued over 7000 consumer licenses to ensure North Dakota citizens have access to a wide array of financial products. As you know, North Dakota as a whole is business friendly, and our Department employees work personally with so many of our financial institutions and applicants to assist with any application processes or work through any concerns they may have.

Before addressing the bill itself, I would like to talk about fintechs and their role in the marketplace and how they relate to our Department. Fintech is short for “financial technology” and is used to describe new technologies used in the financial services industries. Although there are many different types, the most common we are likely all familiar with are payment apps and mobile wallets that we have on our phones. Services offered by PayPal, Venmo, Square, Apple Pay and Google Pay, for example, allow person-to-person money transfers or merchants to receive payments from customers. Fintechs will often partner with existing banks and many fintechs hold a money transmitter license with our department, including some of the companies I just mentioned.

Fintech sandboxes, or regulatory sandboxes, are designed to be alternative regulatory mechanisms to facilitate the development or testing of innovative

financial technology solutions. Existing regulatory requirements are adjusted to provide companies the opportunity to offer and test new products and services in a live environment, for a trial period, with an alternative approval process.

Nine states have created regulatory sandboxes: Arizona, Florida, Hawaii, Kentucky, Nevada, Utah, Vermont, West Virginia, and Wyoming. Two of these are for insurance products only, and the one in Hawaii is limited to digital currency money transmission. Arizona and Hawaii are the only states which appear to have had any participants in their sandbox. Since the inception of Arizona's sandbox in 2018, they have had 10 companies participate. Companies in the sandbox often want to test their products with consumers to gauge effectiveness and viability. Arizona's website lists three companies currently in their sandbox, two that are lending-related and one money transmission service. The Hawaii sandbox, or Digital Currency Innovation Lab, is tailored to crypto companies which are issued a "no action message" exempting the company from the state's money transmitter licensing requirements. Their website lists 11 companies – some of these are foreign or domestic-based crypto exchanges or digital custodian and wallet services. I am aware of six other states where sandbox legislation has been introduced but has not passed.

HB 1268 as presented would allow companies into the sandbox after a "waiver of existing rule/licensing requirement." From discussion with Rep. Toman, it appears his goal is to provide opportunities for companies dealing with crypto/virtual currency and blockchain technology. Under North Dakota law, these

types of activities are already exempt, specifically the 2017 legislature decided that virtual currency should not be included in the definition of money transmission. There are no regulations in place restricting virtual currency, so there would not be a waiver of existing rule or licensing requirement. Therefore, a sandbox would not impact nor help these companies. It should be noted that our Department does license many companies engaged in virtual currency, since these companies often offer additional services involving US dollar denominated currency as well, which are subject to licensing. Given the volume of customers these licensed companies have, it is unlikely that these companies would use the sandbox.

Any company approved to operate in the sandbox would only be available to offer services to North Dakota citizens since we cannot waive any licensing requirements of other states. Each state has separate licensing requirements for companies doing business with their citizens. Even if North Dakota waived traditional money transmission requirements, for example, money transmission activity to anyone other than a North Dakota citizen would require licensure in other states. This limits the practical business use of the sandbox and is also why companies seem to gravitate to sandbox states with larger populations.

None of our money transmitters or fintechs are headquartered in North Dakota, rather every company we license operates in multiple states. For that reason, we are coordinating and cooperating with other states in our licensing and oversight of these companies. Our Department is actively engaged in what we on a national basis call “networked supervision” to provide efficiencies by leveraging

our collective intelligence across the states and with federal regulators. Part of this effort is work on a model law for money transmitters, which we anticipate we will introduce in a bill for your consideration in 2023. This is a coordinated effort between all 50 states with input from the industries we regulate; a 33-member industry panel has provided feedback. By listening to the industry itself, I believe we can foster innovation and provide a good balance between regulation, consumer protection, and availability of services and products. The model law will replace our current money transmitter statute and has three primary objectives: 1) Consumer protection regulation; 2) Preserve public confidence; and 3) Prevention of unlawful individuals from entering the money services industry. The law contains licensure standards and financial responsibility requirements for money service businesses and includes the licensure of virtual currency. The law will provide clarity around when and how to regulate virtual currency businesses. For those conducting virtual currency activity, it includes: “Transferring virtual currency”; “Storing virtual currency”; and “Exchanging virtual currency”. We do not expect the proposed law to regulate or otherwise inhibit the underlying blockchain technology, be burdensome for startup companies, or otherwise create the need for a regulatory sandbox.

Attached to this bill is a fiscal note and I would like to address how we came up with that estimate. Since this bill establishes a new program where financial products are offered to citizens, appropriate measures must be in place to execute the program. We estimate an addition of 3 FTEs necessary: An attorney, IT

expert, and examiner. Since these are innovative companies which can range across a wide spectrum of products, applications may be complicated and legal review is necessary, which necessitates an attorney on staff who would also be responsible for drafting the rules as required in the bill. This approach will require a statutory change since we are currently under the Attorney General's office and are not an exempt agency as outlined in N.D.C.C. § 54-12-08. The need for specialization in financial regulation will be beyond what our current needs dictate. This attorney would effectively be tailoring new rules of operation specific to each applicant to support the special legal carve out from other existing laws and rules. When we coordinate with other states through the current application process, we are able to take advantage of other states' resources if they have certain expertise, such as in-house legal counsel. Since any sandbox product application will be solely in North Dakota, we must make sure that we have proper expertise in house. The bill specifically refers to blockchain, and with the potential applications from digital asset/crypto companies – if they deem a license ordinarily would be necessary for their activities, IT expertise and understanding of these specialized areas are necessary. Also, based on other states' experience, lending products may be part of this space, which makes a general examiner with expertise in examination of financial products and institutions a necessary addition. These companies would most likely be new and may need much assistance and close oversight, therefore, the Department is unable to absorb this program within its current resources.

Costs in addition to the 3 FTEs include training, which will be specialized, travel to out-of-state training, and examination expenses. Although the Department will be reimbursed by the applicants for the examinations, appropriations must be made for the expenses. Revenues are limited to application fees and the examination reimbursements. Estimates are based on other state experiences, although only Arizona has participants in what would be comparable to this sandbox bill to date. Even though most states do not have any participants in their sandbox, we must be ready to handle the applications and oversight since those must be acted upon within 90 days as stated in this bill. This short time requirement would require us to hire staff now to be ready to act on potential applications as required by the law. Resources will also be required beyond the examinations. The examination is a short time-period which is billable; but we will spend substantial time on off-site monitoring of the activity and researching what an examination program should even look like.

Where additional resources are an absolute necessity to take on any new programs, our request is also due to our current environment. We are in the midst of economic uncertainty due to the pandemic, and our Department's utmost priority is to keep our community banks and credit unions safe and sound. Our community financial institutions have stepped up in unprecedented ways to serve their customers throughout this pandemic and they are central to our economic recovery. Our Department must be on hand to assist in any way we can, to ensure the safety and viability of our local community financial institutions. Therefore, I

am unable to reallocate any resources or FTEs from our bank and credit union divisions.

Funding source to cover expenses to establish a sandbox is unknown since the Department is a special fund agency. Industries regulated by the Department fund their own costs, and one industry does not subsidize costs of other regulated industries. Costs would be incurred prior to any revenue being generated and proposed application revenue structures fall short of expected expenses. The State Banking Board which is the body responsible for setting bank assessment levels was briefed about this bill and was clear that they do not believe it is appropriate for banks to subsidize this program. This bill also creates a financial technology innovation account with the state treasurer, which would be new and the bill is not clear how that account would be funded and how resources would be replenished if there are not enough funds to administer the program.

One last item that must be address⁴¹ed in this bill is the fact that the Secretary of State is given authority to exempt financial industries or products from licensing, despite lack of authority to license these entities in the first place. This creates confusion and conflicts with other areas of the North Dakota Century Code since it creates a new and redundant financial regulator in North Dakota.

Finally, our Department's mission is to ensure the safety & soundness of our institutions to promote citizens' confidence in the financial services they receive. If the legislative body decides to establish a fintech sandbox, I ask that you make sure we can do it properly and approach this new regulatory regime with care and

consideration to ensure we can offer a level of customer protection. Any new financial product will need to be fully understood - and protecting our citizens' money is of utmost importance. Based on my research of sandboxes, as I said in the beginning, any benefit of a sandbox does not appear to outweigh the significant cost to establishing a fintech sandbox. I also believe that we can be, and have been, adaptive and on the forefront of financial innovation without such structure in place. Our Department in the next two years will prepare a bill for your consideration in 2023 to implement the new model law, which will ensure consistency across the nation, and our focus should continue to be coordination and participation with other states and federal regulators. This focus ensures a fair regulatory environment for companies as well as providing confidence and protection for North Dakota citizens. I believe North Dakota's current laws already establish a business-friendly environment, which makes a fintech sandbox unnecessary. Therefore, I request a do not pass on HB 1268.

Mr. Chairman, thank you for the opportunity to provide this testimony. I would be happy to answer any questions the Committee may have.



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Testimony of Kyle Martin
Executive Director
TechND

In Support of HB 1268
February 8, 2021

Chairman Lefor and members of the House Industry, Business and Labor Committee:

My name is Kyle Martin, executive director of the Technology Council of North Dakota (TechND). TechND was created in 2000 by North Dakota business, government and education leaders who recognized the need to strengthen the state's technology infrastructure and reposition the state as a national leader in technology, innovation, and workforce development. TechND's 60 plus member organizations provide an overarching view of the technology industry driving North Dakota's economy.

TechND supports legislation that assists North Dakota technology companies in being globally competitive and accelerates the adoption of emerging technologies, including blockchain-driven products and services. HB 1268 would support these positions by creating a financial technology sandbox program. The passage of this legislation would grant a waiver to North Dakota companies who develop innovative financial products or services for consumers if current statutes or rules do not allow a business from offering such products or services to consumers.

As technology evolves at an exponential rate, it can often be difficult for lawmakers to enact rules or regulations that govern new and emerging technologies in a timely manner. Financial institutions today are looking to new technologies that utilize artificial intelligence and blockchain technologies that can identify or prevent fraud, balance ledgers or anticipate market trends before they materialize. However, if North Dakota technology companies are limited by statute from offering new technologies sought by financial institutions, they are put at a disadvantage. The financial technology sandbox program levels the playing field for our region's technology companies by allowing for the adoption and utilization of new and emerging technologies for use in the financial sector.

The passage of this legislation could expand North Dakota's technology sector, develop new jobs and allow businesses to remain competitive throughout our region. While the financial sector has been an early adopter of blockchain technologies, the technology is also being explored in other areas including tracking agriculture products and livestock as they move from farm to fork. If proven successful, the sandbox program proposed in this legislation could expand to other sectors.

This legislation sends a powerful message that our legislature recognizes and encourages the use of emerging technologies and supports North Dakota's 7,600+ technology workers. Therefore, TechND asks the House Industry, Business and Labor Committee recommend a do-pass on HB 1268.

Benjamin Tsai is the President & Managing Partner at Wave Financial, a California Registered Investment Advisor focused on blockchain and cryptocurrencies, with a focus on portfolio management and product development. Previously, Ben served as the Head of Alternative Investments Asia Pacific at AllianceBernstein for 3 years. His finance career started at Merrill Lynch, where he spent 12 years stationed in Tokyo, Hong Kong, and Singapore, running derivative products desks for both equity and fixed income, subsequently the commodities desk covering Asia. He grew up in Southern California, has a BS from UC Berkeley, MBA from UCLA, and is SEC registered.

Benjamin supports the resolution to increase spending in North Dakota to promote the creation of a sandbox to promote blockchain and crypto currency companies. Currently, major Asian financial institutions such as Mitsubishi Bank, Nomura Securities, DBS Bank (aka Development Bank of Singapore), are following Swiss institutions in adopting to both security token ecosystem for tokenization of assets, and crypto currencies for investments. This has led to an outflow of assets and talent internationally. It would be good to have more progressive states, like North Dakota, take on the role to develop a sandbox to cultivate the interest in this space. The resolution will hopefully drive interest back to the US and to North Dakota.

One critical component for institutional adoption is the custody solution. The second proposal, which Benjamin also supports, will explore the conditions around developing such solutions in North Dakota.

William Idrissi
202-431-3282
brokerblockchain@gmail.com

Testimony in Favor of HB 1268 & HCR 3024

My name is William, I am the CTO of Unifinity a education technology platform that uses Blockchain and crypto to incentivize learning, I run and I am the founder of loud bear creative studios in San Francisco, we are a growing incubator and creative center.

I am an AR/VR video game developer, and full stack software engineer

I think America and her governmental systems need to adopt blockchain technology because America is democratic in nature and democracy thrives when it's well-informed through transparency.

The Internet has been involving for quite some time now, blockchain is the next step and evolution. It should be used most prominently for items that are important in nature. recordkeeping which can drastically affect a persons life and criminal history is by far important enough to have verified on blockchain. Having a third-party, that cannot be corrupted witnessing these important updates or events is not only me beneficial, but could be viewed as necessary to uphold the ideals of supporting a fair journey through due process

When it comes to creating fertile grounds for entrepreneurship technology is by far a radical medium forward to these artist to florist within. Supporting a technology/blockchain Excelerator or incubator will allow the value derived from the scalability of technology, but also the direct economic value that blockchain will help manage, this ultimately will bring great attention and returns to whatever space can properly flourish it. There is a huge worldwide competition, to be the creators of the next digital frontier. America has always been at the forefront of innovation, if we keep our eye on the ball, and let North Dakota swing, we could hit a home run

William 'Bear' Idrissi

Software Engineer

San Francisco, CA

202-431-3282 | brokerblockchain@gmail.com

[LinkedIn](#) | [GitHub](#) | [Portfolio](#)

SUMMARY

I am a software engineer proficient with HTML, Node.js, Vercel, Heroku, CSS and JavaScript. I have 6 years of experience in real estate, as an agent helping my clients buy and vetting million dollar properties, which allowed me to develop sales, business development and marketing skills. I also have a strong background/interest in Blockchain, tech, and experience with game development tools such as Unity, Unreal Engine and Godot.

SKILLS

Front End: JavaScript ES6 | React | React Hooks | Redux | jQuery | HTML5 | CSS3

Back End: Node.js | MongoDB | PostgreSQL | Express

Additional Tools: Mocha | Chai | Jasmine | Karma | Webpack | Browserify | Git | GitHub | Heroku | Enzyme | vercel

Additional Skills: RESTful APIs | Unit testing | Algorithms | Data structures

Miscellaneous: Node Package Manager (NPM)

PROJECTS

Laptop Customizer | [View](#)

- Allows users to choose different functionality in their laptop purchase
- simply click on the parts, and see the price and receipt update in real time
- Tech: React, Node.js, Html, Css. JavaScript

Digital Meetup Vr Rooms | [Enter Digital Meetup](#)

- allows users to meet together in real time and share video, audio and motion, Meet safely & digitally!
- .click on a room, using VR headset, Laptop, or mobile device, choose an avatar and join in!
- Tech: mozilla hubs, Aws, React, Three.js

Noteful App | [View](#)

- Allows user to create folders, and place notes within said folders.
- click on create folder, name the folder, then click on add node, choose the folder and press save
- Tech: React, Node.js, Html, Css. JavaScript

EXPERIENCE

Program Director

Impact Labs | San Francisco, CA

Nov 2018 - Present

[Impact Labs](#) is an organization that encourages young technologists to use their skills for social good. This is accomplished through a suite of initiatives - including a fellowship program, an annual summit, impact hackathons, etc. - that explores how talented engineers can build a more equitable, sustainable world.

- Helped support the fellowship program that encourages CS students to focus on impact.

Real Estate Advisor and Blockchain/Smart Contract Software developer

Serendipia (Techstars '20) | San Francisco, CA

May 2019 - Present

The Serendipia Cooperative Protocol is a social impact decentralized accelerator protocol made to tokenize cooperatives communities worldwide, it can be startup societies, global teams to address global issues, to build micro-economies, and/or simply tokenize communities, networks, lands, or other assets.

- Advise a real estate startup on tokenization of assets using blockchain technology. Co-living and co-working spaces and incubators for entrepreneurs and digital nomads.

EDUCATION

Computer Science, Software Engineering

March 2021

Thinkful

- Attended immersive Web Development program to learn HTML, CSS, Bootstrap, JavaScript, jQuery, ReactJS, NodeJS, Ajax, and MongoDB and tools such as Git, GitHub, and Sublime Text, and Visual studio code.

Undergraduate Coursework in Political Science and English

George Washington University

- Member of TKE fraternity

Peter Borovykh
646-406-9229
pborovykh@blockchaindriven.com

Testimony in Favor of HB 1268 & HCR 3024

My name is Peter Borovykh, and I am a senior blockchain architect at a consulting firm BlockchainDriven based in New York, NY. Over the years I have been involved in a number of blockchain build outs for a variety of industries and spaces, including financial, healthcare, decentralized exchanges, national cryptocurrencies, etc. The latest use case I have been working on includes the healthcare space where the blockchain technology has been implemented to optimize the supply chain for single-use devices and literally help hospitals save more lives by operating with more wholesome information.

Blockchain technology helps to effectively solve the problem of double spending, and due to its nature of operating 24/7/365 the blockchain technology allows to offer a tremendous amount of value to the global population. Immutable and transparent record keeping enabled with the blockchain technology makes transactions trustworthy to all the users of that specific blockchain. Due to these and many more incredible features, blockchain technology is truly revolutionary for most fintech startups and companies looking to make a real difference to the status quo database management system, whether such database management systems have been implemented in the banking, healthcare, supply chain or government spaces.

I am writing to support the passage of HCR 3024, which will help the United States to join the blockchain revolution in the state of North Dakota. Such policies are much needed as the fight for blockchain deployment is a very tight one and the global arena has a tremendous amount of competition for innovation that North Dakota state and the U.S. as a nation must participate in.

My name is Max Infeld and I design tools to support community engagement in blockchain-based communities. I have been working for over ten years in community engagement through marketing, art and design, and the last three years integrating these techniques with various blockchain communities and technologies. I am focused on building tools that will add direct value to one's own actions within their community. The resources that are needed to build these advanced tools are scarce in the United States and we need safe places to build, test and iterate. We need a destination that is attractive and promising to the many minds capable of building with these technologies.

Intrinsic to blockchain technology, it perpetually grows value in communities. The architects of blockchain tech supports communities through devising more equitable forms of engagement. Communities that are activated have the potential to create their own stores of human capital as well as address their actual needs. This is achieved through direct and immediate consensus mechanisms. Giving communities the power of blockchain with accountable governance tools-- will bring them up, these communities will grow and retain their value. Supporting blockchain tech development encourages architects to build within their local communities-- with more independence and self-sustainable business practices. Providing clear incentives and a path to create better blockchain tools can lead to innovation. The network effect of blockchain is synergistic within one's own community, but will also import value from like minded supporters.

Max Infeld
CSX Corp | csx.io
Cheyenne, WY

Richard Tuitin
rich@globalmoney.io
617-417-0709

Testimony in Favor of HV 1268 & HCR 3024

To Whom It May Concern,

I appreciate this opportunity to contribute to these proceedings about blockchain technology. My name is Richard, and I am resident of the Commonwealth of Massachusetts. My experience is primarily in software architecture. Like a few of my classmates at UC Berkeley, shortly after learning about blockchain I had dropped out of school to work in the industry. I didn't have money to invest, so I put my mind to it and sold my time as an engineer and researcher.

The core promise of blockchain is the great power, and great responsibility, of replacing middlemen with formulas. Going beyond blockchain's first (and "killer") app, money, the underlying meaning of the term "transaction" is changing a row in a database. Society's most important databases tend to be controlled by institutions that don't really need to compete for that control, and thus are not as incentivized to maximize their operational effectiveness. Barriers to entry often exist with good intentions at heart; in the interest of consumer protection, as it were, whoever has authority over sensitive information must be carefully vetted, regulated, and subject to oversight.

Unfortunately, power preservation and consumer protection are often found at odds, for it is next to impossible to put un-hackable people in charge of the processes that control how rows get to change in society's most important databases. It is possible, however (though exceedingly costly), to produce un-hackable software. With blockchains, security and consensus is an emergent property of the collaboration of thousands of participants in the network and not a function of a single authority. Statements made on a canonical blockchain (yes, there are many flavors) are permanently and irrevocably timestamped. As such they are, "now and forever, one and inseparable" from the rest of "truth" as it lives "on-chain".

Until the invention of bitcoin in 2008, security and decentralization seemed like contrary concepts. Contrary to popular misconception, blockchains are not unregulated. Rather, several aspects of the state of blockchain networks and the data they operate with are regulated by pre-meditated logical recipes called algorithms. Algorithmic regulation offers predictable, objective, and measurable outcomes. It provides certainty without law enforcement influence.

In 1970, Richard Nixon signed the Bank Secrecy Act, turning money infrastructure into a political tool to control who is able to send and receive value. This system of control breeds exclusion, and though it may not always be used despotically or oppressively, it is a public good which clearly serves its "owners" more than the public. The public finds

itself divorced financially from “liberty, and union”, seeking outlets like WallStreetBets to fill that gap.

With HB1268, the blockchain industry can establish North Dakota at the forefront of innovation in autonomous financial services. If self-driving cars are good for the environment, self-driving banks are good for the average person’s savings account. Teslas might catch fire, and decentralized finance will have bugs, but historically, innovation has always paid off in the long run because it has a neat way of aligning the incentives of everyone involved.

In the same way that the Internet made information easier to transport, blockchain technology helps make information easier to verify. Just like cellular telephones allowed billions to become connected with the world, entirely by-passing the need for fixed-line telephone infrastructure, blockchain infrastructure can do the same for sensitive information...without the carrier network monopolies.

Cordially,
Richard Tiutiu

HB 1268

My name is Anton Glotser. I have been an entrepreneur for the past 20 years and for the last 4 years I have focused on building my company Delnorte, which specializes in digitizing real property and putting it on a distributed ledger block chain as well as securitize transaction. I have worked with several governments in Latin America to educate them and to adopt these technologies I wanted to recommend the passage of HB 1268 which will allow for North Dakotans to explore blockchain technology in innovative financial applications. for use by their governments.

I wanted to recommend the passage of HB 1268 which will allow for North Dakotans to explore blockchain technology in innovative financial applications. I believe the potential creation of numerous jobs that on average pay over \$60,000 annually on the low end, far outweigh the \$800,000 fiscal note attached to HB 1268. For example since Wyoming began passing blockchain technology promoting and job creating bills in 2018, it now has over 2,000 Blockchain Technology businesses and has brought over 10 Billion dollars to the WY economy.

I am Gordon Einstein, hybrid Crypto-Attorney, Technologist, and Enterprise Strategist. I received undergraduate degree in Politics in 1991 from Brandeis University in Boston and then received JD in 1995 from the USC Gould School of Law in Los Angeles.

Initially my law practice centered on startup, venture capital, investment banking, regulatory compliance, intellectual property and general business law. As an avid computer and programming hobbyist, in 2012 I was intrigued by Bitcoin, cryptocurrencies, and the related technologies. By 2014, I was providing legal services to several individuals and companies operating in this space. And by 2016 the majority of my law practice involved working with crypto, blockchain and FinTech startups and funds, including as Chief Legal Officer of Distributed Lab. The practice was formalized as CryptoLaw Partners in 2017.

I frequently speak and educate both in the United States and internationally. Some common themes are issues and developments relating to cryptocurrency, the legal aspects of FinTech, structuring blockchain startups, ICOs/STOs, and AML/KYC compliance.

I am in favor of the bill *HB 1268*.

Sixty-seventh
Legislative Assembly
Of North Dakota

February 8, 2021

My name is Jason Desimone and I serve as Head of Blockchain for Ubik Group, where we develop high-profile blockchain projects and solutions for clients of all sizes, ranging from Fortune 500 enterprises to governmental agencies. Our client base spans the globe and includes the likes of the United Nations, Amazon, IBM, American Express, Coinbase, the Green Bank Network, the Ethereum Foundation, and more, and our areas of expertise include tokenization, digital identity, digital wallets and custody solutions, data sovereignty, security, decentralized exchanges, cross-border and micropayments, supply chain logistics, and distributed networks. Additionally, I launched the NYC Blockchain Center in 2019, which was the first public and private partnership (sponsored by NYCEDC alongside Microsoft and the Global Blockchain Business Council) aimed at creating a regulatory sandbox by gathering regulators and entrepreneurs to openly discuss how to reform New York's stringent laws around blockchain technology and support the burgeoning industry while educating blockchain enthusiasts throughout the state.

I am writing to you as a firm supporter of bill HB1268 put forth to the Legislative Assembly of North Dakota. Having worked alongside regulators in New York in regards to the establishment of a financial technology sandbox through the NYC Blockchain Center, I can attest to the widespread support and approval for such a program. The adoption of blockchain technology throughout the U.S. is inevitable, but in order for the industry to properly mature and ultimately reach its full potential, the constructive involvement of both state and federal government is paramount. In New York, overly stringent laws and regulations around blockchain technology stemming from the BitLicense have pushed innovation out of the ecosystem and stymied the adoption and development of this crucial technology. As a result, regulators are intent on correcting these mistakes by forming a financial technology sandbox where entrepreneurs can openly innovate, institutions and businesses can fully operate, and individuals can safely interact with blockchain technology and digital assets with well-defined laws under the proper guidance and support of local government. I applaud North Dakota's efforts to do the same and wholeheartedly believe that creating the right framework around the development of blockchain technology early on through a financial technology sandbox will ultimately lead to a thriving entrepreneurial ecosystem that is capable of attracting the best talent, creating local jobs, and establishing North Dakota amongst the leaders of this cutting-edge technology for years to come.

I also firmly support bill HCR 3024 and believe that regulating special purpose depository institutions for cryptocurrency is an integral step towards creating a safe and prosperous cryptocurrency and digital asset ecosystem throughout North Dakota. The

past four years has seen a precipitous rise in the use of cryptocurrency and digital assets as more and more capital has been flowing from the legacy markets directly into the crypto market, which has officially passed \$1 trillion in total market cap earlier this year. It is only a matter of time until the incumbent financial institutions merge entirely with this ever-evolving decentralized financial landscape, which is growing rapidly but still in its infancy. The ambiguity and lack of regulatory certainty around cryptocurrency users and businesses, however, is a massive impediment to the overall evolution of the space as it remains exceptionally difficult to navigate and innovate. I believe that the states and countries that develop the most progressive regulatory framework around cryptocurrency (including special purpose depository institutions) will find themselves extremely well positioned as financial and technological hubs of the future. The fact that North Dakota is actively taking steps to study the feasibility of regulating special purpose depository institutions for cryptocurrency is a testament to the state's open-mindedness and forward thinking attitude when it comes to establishing a solid backbone for what many believe to be the undeniable financial system of the future. Those institutions and states that resist will unfortunately be left behind.

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1268
2/8/2021

PM

Financial technology sandbox program for innovative financial products & services & criminal history background checks

(2:56) Chairman Lefor called the work session to order.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	A
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Discussion Topics:

- Committee work.

Rep Stemen moved a Do Not Pass.

Rep Adams second.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	A
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	N

Vote roll call taken Motion carried 12-1-1 & Rep Thomas is the carrier.

(3:05) End time.

Ellen LeTang, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1268: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **DO NOT PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1268 was placed on the Eleventh order on the calendar.