2023 SENATE INDUSTRY AND BUSINESS

SB 2119

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee
Fort Union Room, State Capitol

SB 2119
01/04/23

Relating to money transmitters and to provide a penalty.

1:15 PM Chairman D. Larsen called the meeting to order.
Members Present: Chairman D. Larsen, Vice Chairman Kessel, Sen. Barta, Sen. Boehm, and Sen. Klein.

Discussion Topics:

- Money transmitters
- Multistate harmonization
- Consumer protection
- Repeal old chapter
- Consistent state licensing

1:15 PM Lise Kruse, Commissioner of Financial Institutions in support of SB 2119.
Testimony # 12291

Senator Klein moved Do Pass.
Senator Kessel seconded.

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Motion passed 5-0-0

Senator Klein will carry the bill.

1:53 PM Meeting adjourned.

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2119: Industry and Business Committee (Sen. Larsen, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2119 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2119

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

SB 2119
3/1/2023

Relating to money transmitters; and to provide a penalty.

Chairman Louser called meeting to order 2:27 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Members absent: Representatives Christy, Dakane, Johnson, Kasper.

Discussion Topics:

- Virtual currency oversite
- Other state exams
- Federal overreach
- Standardization
- 180 companies registered in ND
- Uniform model state law
- AZ only other state adopted
- Exemptions
- Privacy protections in aggregate
- Protections added

In Favor:
Lise Kruse, Commissioner, ND Department of Financial Institutions, #21415

Chairman Louser adjourned the meeting 2:59 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

SB 2119
3/7/2023

Relating to money transmitters; and to provide a penalty.

Chairman Louser called meeting to order 10:09 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Discussion Topics:

- Model legislation
- Financial privacy requirements 06-08.01
- Second phase introduction
- Virtual currency transitions

Representative Boschee moved a do pass.
Representative Thomas seconded.

Representative Boschee withdraws his motion.

Lise Kruse, Commissioner, ND Financial Institutions, (no written testimony).

Representative Boschee moved a do pass.
Representative Thomas seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	AB
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 13-0-1

Representative Schauer will carry the bill.

Chairman Louser adjourned the meeting 11:03 AM

Diane Lillis, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2119: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2119 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2119

NORTH Dakota | Financial Institutions
Be Legendary.™

MEMORANDUM

DATE: January 4, 2023

TO: Senate Industry and Business

FROM: Lise Kruse, Commissioner

SUBJECT: Testimony in Support of Senate Bill No. 2119

Chairman Larsen and members of the Senate Industry and Business Committee, thank you for the opportunity to testify in support of Senate Bill No. 2119.

Mr. Chairman and members of the Committee, Senate Bill No. 2119 creates and enacts chapter 13-09.1 of the North Dakota Century Code related to money transmitters. It replaces chapter 13-09, which is being repealed. This Bill also includes an amendment to subsection 1 of section 6-01-01.1 related to the financial institutions regulatory fund.

A money transmitter receives money for transmission from a person, or sell or issue payment instruments or stored value. Money transmitters that are familiar to you would include Western Union, MoneyGram, PayPal

and Square – just to name a few of our 180 licensees. The companies operate nationwide, some globally, and some are regional. North Dakota does not have any of these entities headquartered here. This industry has shown explosive growth, not only in transmission volume, but also in the variety of companies. Because of the boom in fintech payments providers, the number of money transmitters operating nationwide has more than doubled since 2015. More of the companies are operating online or via an app rather than via a physical location in a state.

The current money transmitter statute in North Dakota went into effect in 2005 and is due for modernization. When a company operates in all 50 states, you can imagine the burden it creates on the industry with 50 different interpretations and variations of law. The federal government has threatened to intervene; however, I believe we as a state are best equipped to represent our local citizens' interests. To prevent federal preemption, states have worked together to create a new model law with input from the regulated industry.

The Money Transmission Modernization Act, also known as the Money Transmitter Model Law, is a single set of nationwide standards and requirements created by industry and state experts and approved by the CSBS Board of Directors, which is the state bank supervisors' organization

the Department is a member of. I currently serve on the Board so I have had insight into the development of this law. A common baseline of laws across the country is a crucial step in advancing multistate harmonization in the money transmission industry, as states will be better able to work together in the licensing, oversight, and supervision of money transmitters operating across state lines. Common standards also empower the states to use technology, apply data analytics and share resources together as a networked system of state supervision (Networked Supervision). Networked Supervision benefits both consumer and industry: 1) Consumers benefit from the added risk detection and corresponding consumer protection that becomes possible with consistent standards across the states and 2) The industry benefits from a faster, more predictable and efficient oversight process across the states.

This model law provides the states with the tools needed to oversee money transmitters of all sizes, including those that operate globally or small businesses operating locally. It standardizes definitions, exemptions, the licensing process, and safety and soundness requirements, which promotes consistency and removes the obstacles for industries operating in multiple states. It enables better coordination between states for better utilization of resources. For example, our Department has been participating in multi-

state examinations, for efficiency purposes, which is also a relief for the company so they don't have to deal with 50 separate examinations. Standardization also facilitates better and consistent reporting so we can utilize technology and data analytics to supervise at scale with local accountability.

This Money Transmission Model Law is a key tool for states to maintain our state oversight over money transmission instead of a federal option. Federal regulators and Congress have made clear their intent to preempt state authority over money transmitters. This federal preemption would override state consumer protection laws and provide larger, more established companies with a competitive advantage, hindering smaller businesses, innovation, and consumer access. This model law is a comprehensive solution to the pain points in the system and limits the risk of federal preemption.

Another benefit of this new law is that it improves consumer protection by protecting the public from financial crime, increasing the safety of customer funds and guaranteeing adequate capitalization of licensees. The standardization of safety and soundness requirements across the states ensures that industry maintains a high level of competency, integrity and security. North Dakota will be better positioned to address new

developments in a rapidly changing financial services market. Technology is driving rapid changes in financial services and that pace of change is only set to accelerate. I believe North Dakota needs targeted changes in state laws to stay ahead of the evolving marketplace.

As I mentioned, this law was created by state supervisors with considerable input from the industry. Many of the existing rules were carried forward to this new law; however, I believe much of the language has been clarified, and the law is more robust since states had the ability to learn from each other and base the law on best practices. It also allowed for in-depth discussions throughout the state system and involving the industry. It is important to note that the Department has also included a section covering transmissions involving virtual currencies. That section starts on page 43 of the Bill and is an abridged version of the Uniform Law Commission's Virtual Currency Act. As you may be aware, there is a separate Uniform Law Commission update introduced this session related to technology and digital assets. That Bill is not in conflict but corresponds nicely with our Bill. Virtual currency has been a growing area and the Department has several of these companies licensed already, since the companies licenses also do traditional money transmission. Including virtual currency in our oversight gives North Dakota a "seat at the table" when working with that industry.

Section 1 of the Bill amends subsection 1 of section 6-01-01.1 replacing 13-09 with the new chapter reference covering money transmitters 13-09.1.

Section 2 of the Bill is the entire new chapter 13-09.1, the model law for money transmitters, which should create uniformity across the nation.

Section 3 of the Bill is the repeal of the old chapter 13-09.

Finally, attached to my testimony is a letter from industry representatives in support of this Model Law.

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

December 8, 2022

Re: Industry Support for Full Adoption of Model Money Transmission Modernization Act

To Whom It May Concern:

On behalf of the undersigned trade associations, whose members include a diverse array of participants in the payments industry, we believe that the Model Money Transmission Modernization Act ("Model Law") should be adopted uniformly and completely throughout the United States.

The Model Law was developed by the Conference of State Bank Supervisors ("CSBS") with extensive input from regulators and industry stakeholders. The transparent effort involved hundreds of hours of collaborative meetings among state regulators from across the country, licensed money transmitters, and industry trade groups, as well as input from a variety of consumer and financial services stakeholders. The result was strong consensus support for the Model Law's money transmission provisions (Articles 1-12).

While the undersigned support the adoption of the Model Law as a general proposition, support for any particular piece of proposed legislation pertaining to money transmission regulation is subject to each individual association's review and assessment of the legislation, including with respect to consistency with the Model Law. The Model Law contains interconnected concepts often dependent on one another to function appropriately as a holistic and effective regulatory regime.

Additionally, uniform and comprehensive adoption of the Model Law will ensure that customers are protected in the same fashion, and payments companies are regulated in the same fashion, across all jurisdictions. It would create a robust single, national standard for customer protections, clarify and standardize definitions of regulated activity and related key elements of regulation, and streamline states' ability to license and examine money transmitters through the Nationwide Multistate Licensing System. Uniform adoption of the Model Law would therefore not only enable a more seamless approach to regulation than the status quo, but also help preserve States' limited resources with respect to licensing and supervisory efforts.

State regulation of payments must improve from the status quo of conflicting laws and patchwork protections that creates uncertainty, risk, and unnecessary burdens for consumers and businesses. Inconsistencies also act as a barrier to entry and competition from new entrants and slow or deter product innovation, which hinders our ability to keep up with an evolving economy and our internet-connected world.

CSBS recently reported that the boom in fintech payments providers has resulted in the number of money transmitters operating nationwide (licensed in 40 or more states) more than doubling since 2015. In light of the substantial increase in the volume of regulation and oversight required as this industry continues to expand, standardization will be a benefit to regulators in managing workloads more efficiently.

Finally, adoption of the Model Law should be pursued separately from other efforts to address the regulation of digital assets (i.e., Article 13). Questions remain around the appropriate classifications for those assets under money transmission laws and the States must still seek alignment on the approach, especially in light of the recent legislative efforts at the Federal level to address digital asset regulation.

Uniform adoption of the Model Law is critical to protecting users, maintaining U.S. competitiveness, and supporting regulator efficiency. Thank you for your commitment to this goal. We look forward to working with you towards full adoption.

Respectfully,

Electronic Transactions Association
Money Services Business Association
Financial Technology Association
TechNet
The Money Services Round Table

Contacts:

Electronic Transactions Association
Scott Talbott
stalbott@electran.org

Brian Yates
byates@electran.org

Money Services Business Association
Kathy Tomasofsky
Kathy.Tomasofsky@msbassociation.org

TechNet
David Edmonson
dedmonson@technet.org

The Financial Technology Association
Angelena Bradfield
angelena@ftassociation.org

The Money Services Round Table
Adam J. Fleisher
afleisher@cooley.com

NORTH Dakota | Financial Institutions
Be Legendary.™

MEMORANDUM

DATE: March 1, 2023

TO: House Industry, Business and Labor Committee

FROM: Lise Kruse, Commissioner

SUBJECT: Testimony in Support of Senate Bill No. 2119

Chairman Louser and members of the House Industry, Business and Labor Committee, thank you for the opportunity to testify in support of Senate Bill No. 2119.

Mr. Chairman and members of the Committee, Senate Bill No. 2119 creates and enacts chapter 13-09.1 of the North Dakota Century Code related to money transmitters. It replaces chapter 13-09, which is being repealed. This Bill also includes an amendment to subsection 1 of section 6-01-01.1 related to the financial institutions regulatory fund.

A money transmitter receives money for transmission from a person, or sell or issue payment instruments or stored value. Money transmitters that are familiar to you would include Western Union, MoneyGram, PayPal

and Square – just to name a few of our 180 licensees. The companies operate nationwide, some globally, and some are regional. North Dakota does not have any of these entities headquartered here. This industry has shown explosive growth, not only in transmission volume, but also in the variety of companies. Because of the boom in fintech payments providers, the number of money transmitters operating nationwide has more than doubled since 2015. More of the companies are operating online or via an app rather than via a physical location in a state.

The current money transmitter statute in North Dakota went into effect in 2005 and is due for modernization. When a company operates in all 50 states, you can imagine the burden it creates on the industry with 50 different interpretations and variations of law. The federal government has threatened to intervene; however, I believe we as a state are best equipped to represent our local citizens' interests. To prevent federal preemption, states have worked together to create a new model law with input from the regulated industry.

The Money Transmission Modernization Act, also known as the Money Transmitter Model Law, is a single set of nationwide standards and requirements created by industry and state experts and approved by the CSBS Board of Directors, which is the state bank supervisors' organization

the Department is a member of. I currently serve on the Board so I have had insight into the development of this law. A common baseline of laws across the country is a crucial step in advancing multistate harmonization in the money transmission industry, as states will be better able to work together in the licensing, oversight, and supervision of money transmitters operating across state lines. Common standards also empower the states to use technology, apply data analytics and share resources together as a networked system of state supervision (Networked Supervision). Networked Supervision benefits both consumer and industry: 1) Consumers benefit from the added risk detection and corresponding consumer protection that becomes possible with consistent standards across the states and 2) The industry benefits from a faster, more predictable and efficient oversight process across the states.

This model law provides the states with the tools needed to oversee money transmitters of all sizes, including those that operate globally or small businesses operating locally. It standardizes definitions, exemptions, the licensing process, and safety and soundness requirements, which promotes consistency and removes the obstacles for industries operating in multiple states. It enables better coordination between states for better utilization of resources. For example, our Department has been participating in multi-

state examinations, for efficiency purposes, which is also a relief for the company so they don't have to deal with 50 separate examinations. Standardization also facilitates better and consistent reporting so we can utilize technology and data analytics to supervise at scale with local accountability.

This Money Transmission Model Law is a key tool for states to maintain our state oversight over money transmission instead of a federal option. Federal regulators and Congress have made clear their intent to preempt state authority over money transmitters. This federal preemption would override state consumer protection laws and provide larger, more established companies with a competitive advantage, hindering smaller businesses, innovation, and consumer access. This model law is a comprehensive solution to the pain points in the system and limits the risk of federal preemption.

Another benefit of this new law is that it improves consumer protection by protecting the public from financial crime, increasing the safety of customer funds and guaranteeing adequate capitalization of licensees. The standardization of safety and soundness requirements across the states ensures that industry maintains a high level of competency, integrity and security. North Dakota will be better positioned to address new

developments in a rapidly changing financial services market. Technology is driving rapid changes in financial services and that pace of change is only set to accelerate. I believe North Dakota needs targeted changes in state laws to stay ahead of the evolving marketplace.

As I mentioned, this law was created by state supervisors with considerable input from the industry. Many of the existing rules were carried forward to this new law; however, I believe much of the language has been clarified, and the law is more robust since states had the ability to learn from each other and base the law on best practices. It also allowed for in-depth discussions throughout the state system and involving the industry. It is important to note that the Department has also included a section covering transmissions involving virtual currencies. That section starts on page 43 of the Bill and is an abridged version of the Uniform Law Commission's Virtual Currency Act. As you may be aware, there is a separate Uniform Law Commission update introduced this session related to technology and digital assets. That Bill is not in conflict but corresponds nicely with our Bill. Virtual currency has been a growing area and the Department has several of these companies licensed already, since the companies licenses also do traditional money transmission. Including virtual currency in our oversight gives North Dakota a "seat at the table" when working with that industry.

Section 1 of the Bill amends subsection 1 of section 6-01-01.1 replacing 13-09 with the new chapter reference covering money transmitters 13-09.1.

Section 2 of the Bill is the entire new chapter 13-09.1, the model law for money transmitters, which should create uniformity across the nation.

Section 3 of the Bill is the repeal of the old chapter 13-09.

Finally, attached to my testimony is a letter from industry representatives in support of this Model Law.

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

December 8, 2022

Re: Industry Support for Full Adoption of Model Money Transmission Modernization Act

To Whom It May Concern:

On behalf of the undersigned trade associations, whose members include a diverse array of participants in the payments industry, we believe that the Model Money Transmission Modernization Act ("Model Law") should be adopted uniformly and completely throughout the United States.

The Model Law was developed by the Conference of State Bank Supervisors ("CSBS") with extensive input from regulators and industry stakeholders. The transparent effort involved hundreds of hours of collaborative meetings among state regulators from across the country, licensed money transmitters, and industry trade groups, as well as input from a variety of consumer and financial services stakeholders. The result was strong consensus support for the Model Law's money transmission provisions (Articles 1-12).

While the undersigned support the adoption of the Model Law as a general proposition, support for any particular piece of proposed legislation pertaining to money transmission regulation is subject to each individual association's review and assessment of the legislation, including with respect to consistency with the Model Law. The Model Law contains interconnected concepts often dependent on one another to function appropriately as a holistic and effective regulatory regime.

Additionally, uniform and comprehensive adoption of the Model Law will ensure that customers are protected in the same fashion, and payments companies are regulated in the same fashion, across all jurisdictions. It would create a robust single, national standard for customer protections, clarify and standardize definitions of regulated activity and related key elements of regulation, and streamline states' ability to license and examine money transmitters through the Nationwide Multistate Licensing System. Uniform adoption of the Model Law would therefore not only enable a more seamless approach to regulation than the status quo, but also help preserve States' limited resources with respect to licensing and supervisory efforts.

State regulation of payments must improve from the status quo of conflicting laws and patchwork protections that creates uncertainty, risk, and unnecessary burdens for consumers and businesses. Inconsistencies also act as a barrier to entry and competition from new entrants and slow or deter product innovation, which hinders our ability to keep up with an evolving economy and our internet-connected world.

CSBS recently reported that the boom in fintech payments providers has resulted in the number of money transmitters operating nationwide (licensed in 40 or more states) more than doubling since 2015. In light of the substantial increase in the volume of regulation and oversight required as this industry continues to expand, standardization will be a benefit to regulators in managing workloads more efficiently.

Finally, adoption of the Model Law should be pursued separately from other efforts to address the regulation of digital assets (i.e., Article 13). Questions remain around the appropriate classifications for those assets under money transmission laws and the States must still seek alignment on the approach, especially in light of the recent legislative efforts at the Federal level to address digital asset regulation.

Uniform adoption of the Model Law is critical to protecting users, maintaining U.S. competitiveness, and supporting regulator efficiency. Thank you for your commitment to this goal. We look forward to working with you towards full adoption.

Respectfully,

Electronic Transactions Association
Money Services Business Association
Financial Technology Association
TechNet
The Money Services Round Table

Contacts:

Electronic Transactions Association
Scott Talbott
stalbott@electran.org

Brian Yates
byates@electran.org

Money Services Business Association
Kathy Tomasofsky
Kathy.Tomasofsky@msbassociation.org

TechNet
David Edmonson
dedmonson@technet.org

The Financial Technology Association
Angelena Bradfield
angelena@ftassociation.org

The Money Services Round Table
Adam J. Fleisher
afleisher@cooley.com