

MEMORANDUM

DATE: March 10, 2025
TO: Senate Industry and Business Committee
FROM: Lise Kruse, Commissioner
SUBJECT: Testimony in Support of House Bill No. 1447

Chairman Barta and members of the Senate Industry and Business Committee, thank you for the opportunity to testify in support of House Bill No. 1447.

Our department oversees banks, credit unions, trust companies, and other nonbank financial corporations such as money transmitters and lenders. The department is in support of this Bill since it clarifies an area where we already have jurisdiction. Oversight of virtual currency money transmitters is outlined in NDCC 13-09.1 and this would be an add-on to that model law that legislature approved in 2023. The department had already planned on expanding and clarifying that section, related to crypto ATMs, and therefore we were pleased to work with AARP on this topic.

There has been an increase in fraud in recent years, and banks have alerted me to the increase in financial elder abuse, and now specifically, how grandma is duped into putting cash into a crypto ATM, often with help from the fraudsters, and the money is gone. Crypto ATMs have become the new avenue for fraudsters, instead of gift cards which was the fraudsters' currency of choice, this is faster since the cash loaded into a crypto ATM is instantaneously in the fraudster's crypto wallet. Due to the potential for fraud, I believe it is appropriate to enforce some type of limit, better consumer alerts at the machines, and clarify what the ATM owners are required to do to help prevent fraudulent transactions.

Per the FBI Internet Crime Complaint Center, total crypto fraud losses jumped 45% in 2023 to \$5.6 billion. The center reported over 69,000 complaints, with 17,000 complaints from people over the age of 60, with losses of \$1.6 billion. North Dakota complaints totaled 103 with \$6.5 million in losses, which is over \$60,000 per person on average. In the FBI report, crypto ATMs accounted for more than 5,000 complaints with losses of \$189 million. Over half the complaints were from individuals over the age of 60 and resulted in \$124 million of the losses. These numbers are likely low, since many victims, especially in our elderly population, are hesitant to report it due to embarrassment. A reason why the fraud victims with crypto ATMs

are predominantly elderly is likely due to the fact that younger individuals active in the crypto marketplace uses exchanges on their phone and would not need a physical location.

Testimony submitted in opposition during the house hearing raised a concern that this Bill will somehow lessen a company's obligation to report suspicious activity to government and law enforcement. If you hear things like that today, please know that is not the case. Federal law requires that any suspicious activity for a money service business is reported on transactions if it "involves or aggregates funds or other assets of at least \$2,000." That does not mean that transactions would need to reach \$2,000 before any suspected unlawful activity is reported. The statute also states that "Any money services business may also file...a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section" CFR 31 1022.320(a).

We are requesting an amendment to correct a few issues that have raised concern. When it was voted on at the House floor, questions were raised regarding the definitions. We have looked at what other states have and what has been proposed on the federal level and have the following suggestions:

On page 1, the first two definitions were combined in a proposed federal bill, and I suggest using that for simplicity rather than having a separate definition adding “software”. Definition 14 on page 3 introduced a new term “money transmission kiosk”. I shortened it to match what Minnesota has, which is clear and concise.

Also, the House did considerable work on this Bill, which resulted in substantial changes. These changes include raising the transaction limit from \$1,000 to \$2,000, removing the crypto kiosk companies’ fraud liability, eliminating a maximum fee the crypto kiosk companies can charge North Dakota consumers, and modification of the requirement to provide North Dakota customers a paper receipt. One change is especially problematic and makes this statute less effective as a fraud protection, that is the change to the daily limits. On page 7 lines 2-3 and the last page (page 9) lines 14-15, language was inserted to make limitations only for the first 5 transactions within the first 30 days of the first transaction. This would only limit someone if they are a victim of a fraud the first few times they use this machine. Also, it ignores the fact that many victims are victims over time, such as romance scam victims. Also, fraudsters can easily circumvent these limitations by keeping the amounts low in the beginning and increasing amounts over time. For these reasons, we are requesting an amendment here to address this

fraud risk, to ensure this Bill provides effective fraud protection. This change back to a more reasonable transaction limit would be consistent with laws in other states.

Finally, there are people here today that work with fraud victims every day and see the concerning activities that this Bill is trying to address. The people that are victims that we want to protect are North Dakota citizens, losing substantial amounts of money. Therefore, we request a “do pass” on this Bill including a “do pass” on the proposed amendment.

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

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1447

Introduced by

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

Senators Hogan, Klein, Lee, Rummel, Sickler

1 A BILL for an Act to create and enact sections 13-09.1-50, 13-09.1-51, 13-09.1-52, 13-09.1-53,
2 and 13-09.1-54 of the North Dakota Century Code, relating to virtual-currency kiosks; and to
3 amend and reenact section 13-09.1-44 of the North Dakota Century Code, relating to virtual-
4 currency kiosks.

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

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

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

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

- 11 1. "Blockchain analytics" means the analysis of data from blockchains or publicly
~~12 distributed ledgers, including associated transaction information=~~
- ~~13 2. "Blockchain analytics software" means a software service that uses blockchain~~
14 ~~analytics data~~ to provide risk-specific information about virtual-currency transactions and
15 virtual currency wallet addresses.
- 16 3. "Control of virtual currency", when used in reference to a transaction or relationship
17 involving virtual currency, means the power to execute unilaterally or prevent
18 indefinitely a virtual-currency transaction.
- 19 ~~2.4.~~ "Exchange", used as a verb, means to assume control of virtual currency from or on
20 behalf of a person, at least momentarily, to sell, trade, or convert:
- 21 a. Virtual currency for money, bank credit, or one or more forms of virtual currency;
22 or

1 b. Money or bank credit for one or more forms of virtual currency.

2 5. "Transaction hash" means a unique identifier made up of a string of characters that act
3 as a record and provide proof the transaction was verified and added to the
4 blockchain.

5 ~~3.6.~~ "Transfer" means to assume control of virtual currency from or on behalf of a person
6 and to:

7 a. Credit the virtual currency to the account of another person;

8 b. Move the virtual currency from one account of a person to another account of the
9 same person; or

10 c. Relinquish control of virtual currency to another person.

11 ~~4.7.~~ "United States dollar equivalent of virtual currency" means the equivalent value of a
12 particular virtual currency in United States dollars shown on a virtual-currency
13 exchange based in the United States for a particular date or period specified in this
14 chapter.

15 ~~5.8.~~ "Virtual currency":

16 a. Means a digital representation of value that:

17 (1) Is used as a medium of exchange, unit of account, or store of value; and

18 (2) Is not money, whether or not denominated in money; and

19 b. Does not include:

20 (1) A transaction in which a merchant grants, as part of an affinity or rewards
21 program, value that cannot be taken from or exchanged with the merchant
22 for money, bank credit, or virtual currency; or

23 (2) A digital representation of value issued by or on behalf of a publisher and
24 used solely within an online game, game platform, or family of games sold
25 by the same publisher or offered on the same game platform.

26 9. "Virtual-currency address" means an alphanumeric identifier associated with a
27 virtual-currency wallet identifying the location to which a virtual-currency transaction
28 may be sent.

29 ~~6.10.~~ "Virtual-currency administration" means issuing virtual currency with the authority to
30 redeem the currency for money, bank credit, or other virtual currency.

31 ~~7.11.~~ "Virtual-currency business activity" means:

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

1 **13-09.1-51. Disclosures.**

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

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

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

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

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

14 (2) Fraudulent bank transactions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 c. Allocation of responsibility for monitoring risks; and

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

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

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

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

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

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

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

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

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

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

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

20 **13-09.1-54. Customer service.**

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