

2023 SENATE INDUSTRY AND BUSINESS

SB 2392

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2392
4/3/2023

A bill relating to the definition of deposit account.

9:00 AM Chairman D. Larsen called the meeting to order. Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

Discussion Topics:

- Definition of money
- Central bank digital currency (CBDC)
- Elimination of physical cash
- Committee action

9:01 AM Senator Bob Paulson, District 3, Minot, North Dakota, introduced SB 2392 and testified in favor. #27210, #27211, #27220

9:08 AM Patricia Leno testified in favor of SB 2392. #27187

9:11 AM Rick Clayburg, CEO, North Dakota Bankers Association, testified neutral on SB 2392. No written testimony.

9:33 AM Barry Haugen, President, Independent Community Banks of North Dakota, testified neutral on SB 2392. No written testimony.

9:38 AM Chairman D. Larsen closed the hearing on SB 2392.

9:38 AM Senator Klein moved to adopt an amendment to SB 2392. LC23.1125.01001. Senator Barta seconded the motion.

Roll call vote:

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

Vote: 5-0-0- Motion passed to ADOPT AN AMENDMENT TO SB 2392. 9:40

AM Senator Boehm moved to DO PASS AS AMENDED SB 2392. 9:40 AM

Senator Barta seconded the motion.

Roll call vote:

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- DO PASS AS AMENDED SB 2392.

Senator Barta will carry the bill.

Additional written testimony:

Bruce Moe #27147
Cathy Brennan #27141
Alida Arnegard #27113
Amber Vibeto #27197
Jacqui Skadberg #27195
Bill Kuntz #27193
Lydia R. Gessele #27192
Renee Kuntz #27191
Mark Sandstrom #27190
Holly Bergloff #27179
Steve Bagan #27184
Gordon Greenstein #27182
Tomasz Zarzycki #27180
Keith Kissinger #27196
Sarah Lepp #27168

9:41 AM Chairman D. Larsen adjourned.

Brenda Cook, Committee Clerk

23.1125.01001
Title.02000

Adopted by the Senate Industry and Business
Committee

April 3, 2023

AR
141
4-3-23

PROPOSED AMENDMENTS TO SENATE BILL NO. 2392

Page 1, line 7, after "a" insert "United States"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2392: Industry and Business Committee (Sen. Larsen, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2392 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 7, after "a" insert "United States"

Renumber accordingly

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2392

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2392
4/11/2023

Relating to the definition of deposit account.

Vice Chairman Ostlie called meeting to order 9:18 AM

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

Members absent: Representative Christy

Discussion Topics:

- ND Citizens
- Cash strength
- Foreign central banks
- Fed now
- Digital assets
- Act of Congress
- Uniform Commercial Code
- Article 9
- Cash protection
- Fiat currency

In Favor:

Senator Bob Paulson, District 3, Minot, ND (no written testimony)
Patricia Leno, District 30, Bismarck ND, #27388

Neutral:

Rick Clayburgh, President & CEO, ND Bankers Association (no written testimony)
Barry Haugen, President, Independent Community Banks of ND (no written testimony)

Representative Thomas moved a do pass.
Representative Tveit seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	AB
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 12-0-2

Representative Tveit will carry the bill.

Chairman Louser adjourned the meeting 10:04 AM

Diane Lillis, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2392, as reengrossed: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Reengrossed SB 2392 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2392

Good Afternoon Senate Industry and Business Committee Member,

It is my hope that you would be in agreement with me today that the definition of money is very important especially in light of current events like banks failing and our uncertain times with rumors of war and political turmoil erupting. We are in an economic crisis due to unfortunate choices by our administration authorizing out of control spending, inflation and climbing debt which we all know leads to the devaluation of money.

I would entreat you to please support this effort by concerned citizens and legislators and render your do pass recommendation on SB 2392! This will protect ND from accepting a central bank digital currency in case the federal government succeeds in its efforts to implement one. North Dakota must do all we can to send a message to the federal government that educated, free thinking citizens will not allow the CBDC to replace our US dollar because we realize that it would take away our privacy and liberty. Look to China and their social media scores for clues to what could happen here because our personal funds would then be tracked and controlled by the government. Is this agreeable to you? It is odious to me.

Thank you for your respectful consideration regarding this pressing matter and for your diligent service to the state of North Dakota.

Alida Arnegard District 26

This bill is ESSENTIAL to maintaining the peoples' right to a free and vibrant economy. An in-hand currency must be available to assure free commerce, the freedom to choose and the ability to remain free from governmental tyranny through monetary control.

I urge you to vote YES to maintain the ability for individuals to be free from forced enslavement to a bureaucratic mass that will be able to decide who spends what amount and where they are allowed to spend it.

A centralized banking digital currency is not safer for the people, nor does it provide a better way to grow the economy, Total control of personal financing belong with the individual, not the government, at each and every level.

Do not vote for the digital dollar, centralization of economic power with the government, or for the removal of cash as legal currency.

Please render a do pass recommendation on SB 2392 in order to protect ND from a central bank digital currency if the federal government succeeds in its efforts to implement one.

Governments like CBDCs because they are issued by the state and it allows for tight regulation within a closed system. CBDCs are under the direct control of the government unlike cryptocurrencies which are issued by the private sector or public blockchains. CBDCs make every 1¢ traceable and potentially have the government block bank accounts not allowing access to ones own money because of something they deemed potentially harmful, creating too high of a carbon footprint or misinformation posted on social media basically what China has been doing for many years now with the social credit score.

Example I occurred recently, I was shopping at a local grocery store picking up a few items. I treated my daughter and myself to a coffee that is located within the store. I normally pay with my debit card however, their internet was down and experiencing issues (same with the grocery store as well) and were unable to process the transaction and were asking for cash in order to complete my order. This is not CBCD per se but if I didnt have cash on me, my shopping trip would have been over and unable to pick up food for my family that day at that store. I know I could have gone to another store but time was limited. There were many people that were at the check out that had to abandon carts full of food because they didnt have an alternative form of payment. This is the example; they were forced to leave the store without their items. If the government saw they did something they deemed unacceptable they wouldnt be able to go to another store, they wouldnt be able to feed their families, buy new clothes that have been outgrown or tattered, unable to put gas in their car, have their electricity turned off in the dead of winter, kicked out of their home due to non-payment because their funds got blocked.

There are many people whom do not pay for items with a credit card but cash or check only. Many bills are still paid with cash or check and implementation of CBCD would hinder peoples ability to make payments freely with their choice of payment. I urge you to allow our untraceable dollar, coin, precious metals etc, to be just that and block the government in meddling in our affairs.

Thank you for your consideration on this matter and for your service to the state of North Dakota.

March 31, 2023

Dear Members of the Senate Industry and Business Committee,

Please render a do pass recommendation on SB 2392 in order to protect ND from a central bank digital currency if the federal government succeeds in its efforts to implement one. States must do all they can to send a message to the federal government that free citizens do not want a CBDC to replace the US dollar.

Thank you for your consideration on this matter and for your service to the state of North Dakota.

Holly Bergloff
West Fargo, District 16

March 31, 2023

Dear Members of the Senate Industry and Business Committee,

Please render a do pass recommendation on SB 2392 in order to protect ND from a central bank digital currency if the federal government succeeds in its efforts to implement one. States must do all they can to send a message to the federal government that free citizens do not want a CBDC to replace the US dollar.

Thank you for your consideration on this matter and for your service to the state of North Dakota.

Tomasz Zarzycki

West Fargo, District 16

Members of the Senate Industry and Business Committee,

Please render a do pass recommendation on SB 2392 to protect ND from a central bank digital currency, if the federal government succeeds in its efforts, to implement one. States must do all they can to send a message to the federal government that free citizens do not want a CBDC to replace the US dollar.

Thank You, Gordon Greenstein

District 35, Bismarck, ND

BAGAN STRINDEN **VISION**

Steve Bagan, MD | Tom Strinden, MD | Sarah Swanholm, OD

February 3, 2023

Dear North Dakota Legislator;

I am an independent North Dakota physician requesting your consideration of HB 1416, which seeks to expand choices for patient-citizens of our great State.

Currently, some medical insurance plans in the State restrict their participants to certain networks of care providers, thereby limiting their freedom of choice in who they want for their medical care.

I have been a physician in North Dakota for 42 years, and I can tell you that virtually all patients would like to choose the Doctor they want. I have, innumerable times, had patients come to me 'out of network' at considerable extra expense, or had patients call to see if they can somehow come to our Clinic with the insurance plan they have.

'Closed' networks are inherently negative for patients, and only serve to try to corner the market for the large clinics and hospitals. We independents are willing to see these patients for the same fee that is given to the 'in network' providers.

Thanks for your consideration.

Steve Bagan, M.D.

SB2392 Testimony

Monday, April 3, 2023

Patricia A. Leno, District 30

To: Senate Industry and Business Committee, Chairman Larsen

When I first heard about the bank bill concerning changing currency I was listening to a conversation with Governor Kristi Noem on Fox News March 11, 2023. The title of this interview was, "Governor Kristi Noem: This is a Threat to our Freedom. After listening to this and hearing that the same thing had happened to our House and Senate, (as far as not having read the bill and having listened to the lobbyists), I thought surely Governor Burgum will veto this terrible bill. Boy, was I wrong! He threw our people in North Dakota under the bus!

Key parts of this bill are addressed below from Governor Noem's discussion: (bold print and underlining added by me)

1. "It was sold as an upgrade to the guidelines of the Universal Commercial Code (UCC) backed by all of our financial institutions, our banks, as we started reading through it. We saw the—The section of the bill that **changed the definition of currency**. And essentially what it did was **pave the way for a government-led CBDC (Central Bank Digital Currency) and it also banned any other form of crypto currency that existed**. So, for me, it very clearly was a threat to our freedom."
2. "I believe it's a way to pave the way for the federal government to control our currency and thus control people. It should be alarming to everyone and it's being sold as an UCC guidelines update."
3. "I find it ironic we also are having the same discussion the same time we have banks and credit card companies talking about coding gun and ammunition in a separate code so we can track it. Not only can they tie these two issues together, if the government doesn't approve of what you're purchasing, if they have the only form of currency out there that is endorsed and utilized in the country, they can control how you spend that money and thus take away all of your freedom."
4. "It was alarming to me. It was over 110 pages long. **They (legislators and senators) were told by lobbyists they have listened to for the last 20 years that it's fine**. It's just a regulation update. This is what we do is adopt federal regulations."
5. If you start reading it, you see in there there's a **redefinition of currency**. That is says government, **CBDC's are okay if they're run by the government**. But any other form is then banned. It's clearly a change for how people's assets are utilized. It clearly limits people the freedom to use other forms of currency that they choose to if it is a digital currency. And it is clearly putting power in the hands of the government."

These points from Governor Noem I heard were definitely alarming to me. I'm so relieved to see this valiant effort by our Senate with sponsor Senator Paulson, and co-sponsor's Senators Estenson and Wobbema, and Representatives Toman and Weisz. Please make a "Do Pass" on SB2392 and join North Dakota's hero sponsors in this effort. Thank you for your time!

North Dakota Legislative Assembly 2023

RE: SB2392

Members of the Senate Industry and Business Committee;

A potential disaster is looming with Central Bank Digital Currency. Many of you have your names tied to a bill that would bless that mess. In SB2392, you have an opportunity to take a stand for all North Dakotans and stand with other rightfully concerned citizens of the USA, and at least put up some defense against this potential atrocity.

I Strongly Urge you to move SB2392 through for passage.

Sincerely,

Mark R. Sandstrom

6785 13th St. SE

Minot, ND 58701

draftpro@srt.com

Members of the Senate Industry and Business Committee,

Please render a do pass recommendation on SB 2392 in order to protect ND from a central bank digital currency if the federal government succeeds in its efforts to implement one. States must do all they can to send a message to the federal government that free citizens do not want a CBDC to replace the US dollar.

Thank you for your consideration on this matter and for your service to the state of North Dakota.

Renee Kuntz
Towner, District 14

My name is Lydia Gessele and I reside, on the land, in District 14. I would like to make my voice heard in support of SB 2392.

We are seeing Central banks all over the world, including our own Federal Reserve and Treasury, exploring the idea of issuing their own digital currencies. A Central Bank Digital Currency (CBDC) would lead to government control over our money because CBDC's are programmable and traceable, the federal government would have the power to tell us where, when and how we are allowed to spend our money. This is what is happening in China and we saw it happen in Canada as well.

CBDC funds are entirely under the control of bureaucrats because every digital dollar has its own unique fingerprint. This allows them to be watched, recorded and controlled by the push of a button. It would allow government control that would limit where and how you could invest your savings as well as limiting your ability to put away for a rainy day. The government would have the ability to confiscate any unspent digital dollars they considered as hoarded funds. It would dictate how much money you would be allowed to spend on food, heating and cooling our homes, vacations and purchases of vehicles. If the government decided that you have spent over the limit they have set they could freeze your account.

We work hard for our money and have the right to spend it as we see fit. I am asking that you vote to support this bill and protect us from the CBDC.

- Members of the Senate Industry and Business Committee,

I am strongly recommending a do pass recommendation on SB 2392 to protect ND citizens from a central bank digital currency. The federal government should not have control over our money and how we access it. If implemented the federal government could control how much money people have access to and what they can spend it on. If enacted, it would shred our constitutional guarantee of limits on federal power and freedom for the individual. States must defend our constitution and do all they can to send a message to the federal government that free citizens do not want a CBDC to replace the US dollar.

Thank you for your consideration on this very important matter and for your service to our great state of North Dakota. May God bless ND and our constitutional system of government.

Bill Kuntz

Towner

District 14

Members of the Senate Industry and Business Committee,

Please render a DO PASS recommendation on SB 2392 in order to protect ND from a digital bank central currency if the federal government succeeds in its efforts to implement one. States must do all they can to send a message to the federal government that free citizens do not want a CBDC to replace the US dollar.

Frank Giustra, CEO of the Fiore Group, states, "No currency in history has ever been launched without a gold backing, including the U.S. dollar. The government is going to reward or punish you depending on how they want to fine tune the economy. This is a very scary proposition which leads to social credit scores and a tyrannical overreaching government, which should never be considered for use by free citizens.

Please render a DO PASS regarding SB 2392.

Thank you for your consideration on this matter and your service to North Dakota.

Sincerely,
Jacqui Skadberg
District 26

See discussions, stats, and author profiles for this publication at: <https://www.researchgate.net/publication/337020108>

Risks involved with CBDCs: On Cash, Privacy, and Information Centralization

Presentation · November 2019

DOI: 10.13140/RG.2.2.30645.22248

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Risks involved with CBDCs:

On Cash, Privacy, and Information Centralization

Prepared for the 'Reinventing Bretton Woods Committee': Dialogue of the Continents, Oct 29-30, 2019,
Hamburg

Linda M. Schilling - Ecole Polytechnique CREST

A central bank digital currency (CBDC) is planned to be a direct deposit a citizen has in the central bank. CBDC is supposed to be backed by central bank assets, to be purely digital, it can be private or non-private, it may or may not replace cash and can compete with bank deposits. CBDC is the central banks' digital answer to cryptocurrencies. To put it in the words of Christine Lagarde, let me read the following quotes taken from the 'Winds of change' IMF staff paper:

'[...] the fintech revolution questions the two forms of money [...] - coins and commercial bank deposits. And it questions the role of the state in providing money.'

'Should central banks issue a new digital form of money? True, your deposits in commercial banks are already digital. But a digital currency would be a liability of the state, like cash today, not of a private firm.'

'Would central banks jump to the rescue and offer a fully anonymous digital currency? Certainly not. Doing so would be a bonanza for criminals.'

I take away from this article that the way the ECB envisions the implementation of CBDC is in its non-private form. As a consequence, all citizens' transactions via CBDC will be transparent to the central bank. The comments I would like to make in the following, therefore, discuss the resilience and privacy of a CBDC based system. In particular, I would like to address the role of CBDC in comparison to the current central bank system involving cash and deposits on the one hand and to cryptocurrencies such as Bitcoin on the other. Altogether, I would like to make three points.

My first point is, I believe that giving up cash in favour of a purely electronic CBDC means giving up a major strategic advantage of the current system over cryptocurrencies. Citizens may opt-out of the CB system and start transacting via crypto only.

What do decentralized cryptocurrencies such as Bitcoin have to offer? Bitcoin obtains truthful reporting of payment transactions in an anonymous way, in a non-trusted, potentially hostile environment. Bitcoin tries to be a digital form of cash. What does the current CB system have to counteroffer? It has to offer cash. Cash allows truthful transactions in a non-trusted environment through immediate settlement if the two transacting parties directly meet each other and trust in the physical token, the Euro coin or bill. If I meet a stranger in the street in the middle of the night and I would like to purchase a banana, I can do this with a Euro coin since the stranger trusts in the coin. This is not the case for bank deposits where settlement requires transacting via a third party, the bank. Transacting via deposits requires trust in the bank that she does not report a 5 Euro banana purchase in my bank statement instead of the true transaction value of 1 Euro.

Cash not only offers immediate settlement, but it also offers wide adoption as a medium of exchange in the Eurozone. Most people and businesses in the Euro area accept Euro coins and bills as a means of payment. We take a wide adoption of the Euro as granted. But 100% adoption is, for instance, not accomplished in the case of Bitcoin. In addition, the cash-deposit-reserve combination of the current CB system offers a proven track record of stability (inflation levels around and below 4%), and continuity, i.e., absence of uncertainty on the Euro being 'a' medium of exchange and store of value not only today but also in the near future. The absence of uncertainty is the strategic advantage of the current CB system over cryptocurrencies.

What does switching to a CBDC mean? CBDC is fully electronic and therefore, may create uncertainty about its usage for certain, elder generations of the population. If uncertainty on CBDC transactions reaches a level close to uncertainty on how to transact via cryptocurrency, its adoption as a payment method becomes uncertain and may lead citizens to opt-out of the Euro currency system.

In contrast, while CBDC wants to be less like cash, Bitcoin wants to be more like cash. Let me introduce you to the Lightning Network. The Lightning Network is a layer-two system which runs on top of the Bitcoin protocol. While every Bitcoin transaction is written in the public Bitcoin blockchain, transactions via the Lightning Network can be conducted off-chain, by this remaining unrecorded in the public ledger. Therefore, the Lightning network on Bitcoin not only achieves higher speed and number of transactions per time unit (scalability) than Bitcoin does, but it, in particular, allows a higher degree of anonymity, by this moving further towards the goal of becoming 'digital cash'.

To conclude my first point, giving up cash as a non-digital payment method may create uncertainty. But lack of uncertainty is the strategic advantage of the current CB system over cryptocurrencies.

The second point I would like to make is that a CBDC based structure is more centralized than the structure of the current CB system. As a consequence, the central bank becomes more prone to cyber-attacks. Further, the amount of data collected will make the central bank itself the subject of supervision .

The CBDC implied system is more centralized than the current cash-deposit CB structure. Currently, there coexist several private and public deposit making banks. Citizens have their deposits in these banks, and the banks in return hold reserves in the central bank. There are no direct deposits in the central bank, yet, the central bank is the central node.

With a CBDC system, citizens have direct deposits in the central bank, potentially replacing their deposits in private banks.

Why can more centralization harm?

A centralized structure requires reliance on the central node, the central bank, in terms of its full functionality. To explain, if the CBDC system is account-based (non-private) all transactions of citizens will be visible by the central bank. Centralization via CBDC causes the accumulation of large amounts of sensitive information. The number of deposit accounts at the central bank level is likely to grow larger than the number of accounts at the average private bank. Thus, also the information aggregation on the level of the CB can exceed the

information gathered by the average deposit making bank. In contrast, in the current system, information aggregation through payments is segmented. It takes place at the level of *multiple* private banks that collect *complementary* information on customers.

The sensitivity of information can reach or exceed that of facebook's and Amazon's collected data. We talk about salaries, shopping behavior, payments by public figures such as politicians and CEOs of companies. As a consequence, the CB may itself become a target for cyber-attacks. We remember the Equifax data breach in 2017, where around 143 million customers' accounts were hacked or the 2014 data breach regarding JP Morgan Chase, where 83 million accounts were hacked.

In addition, if we impose privacy and data regulation on data collecting firms such as facebook and amazon, we have to impose the same kind of regulation on the CB according to the principle 'same business, same risk, same regulation'. Who will supervise and regulate the CB? Have we thought the possibility that an attack on CBDC accounts may undermine trust in the system and exactly create the demand for anonymity which the CBDC based system then can no longer serve? As citizens opt-out, the impact of central bank monetary policy vanishes.

These arguments so far concern attacks from the outside, but what about attacks from the inside? The data accumulation of payment information makes CBs also prone to political influencing. But central banks should aim for and protect their political independence. Altogether, the transition to CBDC makes the central bank a more interesting target for attacks. This is critical for centralized systems. Bitcoin achieves to be trusted even in nontrusted environments, i.e., when nodes act selfish or are hostile. It achieves this goal through decentralization, free entry, and mutually independent operating nodes. Our banking system should try to mimic this structure, and the current private banking system comes closer to it than the CBDC based one.

To summarize, the switch to CBDC implies the aggregation and centralization of highly sensitive data on payment streams. This makes the CB prone to attacks from the inside and the outside. Questions we will have to deal with is what is the amount of public money we are willing to spend on hiring (the best) cyber security experts. Potentially, the separation of the provision of money by the CB and the processing of payments by banks should remain.

The last point I would like to make is that the introduction of CBDC may lead to conflicts of interest with the CB's stability mandate. In order to stabilize currency and target inflation, CBs use the tool to 'print money' through open market operations. With a CBDC based system, however, printing money may serve a second purpose. In case of rumors on the CB's assets, customers can directly run at the central bank to save their deposit. Since there is no lender of last resort (LoLR) for the LoLR, the CB may have to stop the run by printing money, by this loosening monetary policy and affecting the price level of the currency even if not wanted. If the run occurs during economic boom times due to an idiosyncratic shock to the CBs assets, the CB is in a situation where she would want to tighten monetary policy to stabilize prices but has to print money to fend off the run. There is a conflict of interest. In the current CB system, on the other hand, there can be runs on multiple private deposit making banks. But idiosyncratic shocks do not affect all private banks simultaneously. Since the private banks are small in comparison to the CB, the CB can intervene as the LoLR and provide liquidity. The private banks provide a cushion layer between the CB and demand-deposits. With centralization via CBDC, the CB is directly exposed to depositor runs.

References

Agur, Ari, Dell'Ariccia (2019): Designing Central Bank Digital Currencies

Fernandez-Villaverde, Jesus; Sanchez, Daniel; Schilling, Linda; Uhlig, Harald: 'CBDCs and the reorganization of the banking system' [coming soon]

Lagarde, Christine; IMF staff paper: 'Winds of Change: The Case for New Digital Currency'

Mancini-Griffoli, Martinez, Agur, Ari, Kiff, Popescu, Rochon (2019): Casting Light on Central Bank Digital Currency, IMF staff note

Senate Industry and Business Committee Members,

I am writing in support of SB 2392. Although state lawmakers cannot stop the federal government from creating a central bank digital currency, we must do everything we can to impede its implementation in our state. As the federal government grows more powerful and more aligned with globalist initiatives, the state legislatures will be the last line of defense in protecting Americans' rights and freedoms. The [Biden Administration's commitment](#) to pursuing a CBDC is a serious threat to our liberties because it would lead to unprecedented government power over individual citizen's money.

We must not wait until next session to address this threat to our freedom. [Fed Now](#) is a pilot program being launched in July that is being sold as an improvement on the domestic payment system, but is actually the infrastructure that needs to be in place in order for CBDC to work. It will be an optional program in the beginning, but the well-founded concern is that everyone will eventually be required to have a Fed Now account. It'll be like a government run PayPal account, but the transfer of money will be controlled on both ends by the federal government. Not good.

A few reasons why CBDC's are a serious danger to the American people:

- Because CBDC's are programmable and traceable, the federal government would have the power to decide when, where, and how you spend your money.
- CBDC's are entirely under bureaucratic control because every digital dollar has a unique fingerprint. Every single transaction can be surveilled, recorded, or even reversed by a bureaucrat's push of a button. Not only can the government tell how much you're spending or saving, but what you're spending those dollars on and where you're investing your savings.
- CBDC's can be earmarked for certain purchases and forbidden from others. For instance, the government could easily dictate which dollars of your income go to buying food or which dollars you can use to heat or cool your home.
- CBDC's can effectively force spending and prevent saving by imposing maximum savings levels and preventing "hoarding" by confiscating unspent digital dollars.

Please render a do pass recommendation for SB 2392.

Thank you for your consideration on this matter and for your service to the state of North Dakota.

Amber Vibeto
Minot, District 3

[*Resources below](#)



[Federal Reserve announces July launch for the FedNow Service](#)

[The Scary Fed Idea To Turn Your Dollars Into a Digital Power Grab](#)

[Governor Ron DeSantis Announces Legislation to Protect Floridians from a Federally Controlled Central Bank Digital Currency and Surveillance State](#)

[FACT SHEET: White House Releases First-Ever Comprehensive Framework for Responsible Development of Digital Assets](#)

6 Facts Every Lawmaker Needs to Know About the 2022 UCC Amendments and Central Bank Digital Currencies

By Justin Haskins

In July 2022, the Uniform Law Commission and American Law Institute approved new amendments to the Uniform Commercial Code (UCC).¹ As the Uniform Law Commission states, “The Uniform Commercial Code (UCC) is a comprehensive set of laws governing all commercial transactions in the United States. It is not a federal law, but a uniformly adopted state law.”²

Because commercial activity and technology are always changing, it is prudent that lawmakers occasionally update the UCC. The revisions proposed in July 2022 are one such attempt, and many of the suggested changes offered by the Uniform Law Commission and American Law Institute would provide valuable improvements to states’ commercial laws. However, the 2022 amendments to the UCC also include language that unnecessarily encourages the adoption of a central bank digital currency (CBDC), by laying the foundation for the use of CBDCs in commercial transactions. Further, the 2022 amendments do nothing to fix the existing parts of the code that already support the use of CBDCs.

The UCC does need to be amended, but it shouldn’t be altered until those revisions include protections against the use of CBDCs

In the wake of numerous criticisms of the UCC amendments offered in March 2023 by a variety of nonprofit organizations and policymakers, supporters of the amendments distributed a slew of materials defending the passage of the amendments. In many cases, these materials fail to address the key concerns of those who oppose the UCC amendments. In other instances, they outright mislead legislators.

Rather than address those materials and their authors directly, this policy brief will succinctly outline the main issues every policymaker ought to know about the UCC, CBDCs, and how the two issues are related. The fact is, if the UCC amendments as proposed in July 2022 by the Uniform Law Commission and American Law Institute are passed into law, states would be setting the table for the

rollout of a programmable, traceable, easily manipulated central bank digital currency. This is particularly troubling since many voters in states now considering the UCC amendments are staunchly opposed to CBDCs.

The UCC does need to be amended, but it shouldn’t be altered until those revisions include protections against the use of CBDCs. Without such protections, states would be putting the privacy and liberties of their citizens in grave danger.

The following are six brief facts outlining the most important issues related to CBDCs and the Uniform Commercial Code.

Fact 1

Critics of the 2022 UCC amendments believe a central bank digital currency would pose significant threats to freedom for individuals, families, and businesses

- Proposals for a central bank digital currency in the United States call for the creation of a new digital (non-physical) electronic currency that would be traceable and programmable.
- A programmable CBDC would allow government officials, the Federal Reserve, or another designated organization to track all spending activity for every CBDC user. Thus, a CBDC would destroy privacy rights.
- A programmable CBDC would be designed with features that could be used by government or its partners to limit users’ commercial activities.³
- The Biden administration has already stated that if a CBDC were created in the United States, it should be designed so that it promotes social and environmental causes the White House favors, including “equity,” “financial inclusion,” and battling “climate change and pollution.”⁴
- Concerns over CBDCs are not merely theoretical. The Biden administration has been working tirelessly to study and develop a U.S. CBDC.⁵

Fact 2

The 2022 UCC amendments would make it easier to use a CBDC in the future, laying the foundation for a U.S. CBDC like the one discussed by the Biden administration

- For example, the amendments to Article 9 of the UCC would establish the category of “electronic money” specifically to account for the creation of a CBDC and its use by consumers and institutions outside of a bank account.⁶
- Further, the amendments would establish legal provisions so that “exclusive control” in commercial transactions could be established for a CBDC outside of a bank account. Exclusive control is important in some commercial arrangements, especially related to lending.⁷

Fact 3

The 2022 UCC amendments would allow for the use of a CBDC that is programmable and easily controlled by a centralized authority

- The UCC amendments to Article 9 allow for the “exclusive control” requirement to be met “even if ... The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded, limits the use of the electronic money or has a protocol programmed to cause a change, including a transfer or loss of control.”⁸

Fact 4

The 2022 UCC amendments would not create a central bank digital currency, nor would it necessitate its creation

- Contrary to claims made by some *supporters* of the 2022 UCC amendments, informed critics of the amendments do *not* claim their passage would *create* a U.S. central bank digital currency. As I noted in Fact 2, however, the amendments would help lay the foundation for a CBDC.
- The creation of a U.S. CBDC can only occur at the federal level and would require an act of Congress.

Fact 5

The existing version of the UCC would allow for the use of a programmable CBDC, even if the 2022 amendments are not passed into law

- Although the version of the UCC in place prior to the drafting and passage of the 2022 amendments would preclude the use of a CBDC under a number of conditions, a programmable CBDC *could* still be used under current UCC law in many commercial transactions if it were deposited into a bank or Federal Reserve account.
- Money, including a CBDC, placed in a bank account would be covered by existing UCC provisions governing “deposits.” That means if a U.S. CBDC were passed into law tomorrow, it would largely be compatible with many parts of the existing commercial code, but only if users choose to deposit it into a bank or Federal Reserve account or are required to do so because of the design of the CBDC.

State lawmakers seeking to make it more difficult for a central bank digital currency to be adopted and used widely would need to amend the UCC so that a CBDC deposited into a bank or Fed account could not be used for commercial purposes under the UCC.

- State lawmakers seeking to make it more difficult for a central bank digital currency to be adopted and used widely would need to amend the UCC so that a CBDC deposited into a bank or Fed account could not be used for commercial purposes under the UCC. Other changes to the UCC or other parts of state codes might also be prudent.

Fact 6

The 2022 UCC amendments would redefine “money” so that existing cryptocurrencies could never be considered “money” under the UCC

- The 2022 amendments clearly establish in Article 1 that “money” under the UCC “does not include an electronic record that is a medium of exchange recorded and trans-

ferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government.”⁹

- Because all existing cryptocurrencies, including Bitcoin, are “electronic records” serving as a “medium of exchange” prior to being adopted as “money” by the U.S. government, all cryptocurrencies would be prevented from qualifying as “money” under the UCC. Importantly, this would be true under the UCC regardless of whether Congress were to designate a cryptocurrency like Bitcoin as money in the future.
- Instead of being classified as “money,” the UCC amendments would designate cryptocurrencies as “controllable electronic records.”
 - Many supporters of the 2022 amendments claim that these provisions would help the cryptocurrency market, because there are economic advantages to being classified as a “controllable electronic record” instead of “money.”
 - However, numerous critics of the 2022 amendments, myself included, do not object to the 2022 amendments because they would prevent the use of cryptocurrencies. (They wouldn’t.) Nor do we object because the amendments would unquestionably harm cryptocurrencies. It’s possible, although far from settled, that cryptocurrencies would be better off classified as “controllable electronic records” rather than “money” under the UCC. It’s also possible, in critics’ view, that some, many, or all cryptocurrency owners would benefit more if one or more existing cryptocurrency were designated as “money” under the UCC.

- The primary reason critics of the 2022 UCC amendments object to prohibiting existing cryptocurrencies from being considered “money” is simply that there is far too much that remains unknown about the future of both cryptocurrencies and CBDCs. Critics are correctly concerned that updating the UCC so that only a CBDC is “money” might unjustifiably privilege CBDCs over all existing cryptocurrencies, including Bitcoin. Until lawmakers have a better understanding of how a yet-to-be-released CBDC will operate, as well as all of the relevant costs and benefits related to cryptocurrencies being classified as “controllable electronic records” instead of “money,” it would be unwise to rush to prohibit cryptocurrencies from being considered “money” under the UCC.

Until lawmakers have a better understanding of how a yet-to-be-released CBDC will operate, as well as all of the relevant costs and benefits related to cryptocurrencies being classified as “controllable electronic records” instead of “money,” it would be unwise to rush to prohibit cryptocurrencies from being considered “money” under the UCC.



Endnotes

- 1 See Uniform Law Commission, "UCC, 2022 Amendments to," [uniformlaws.org](https://www.uniformlaws.org), last accessed March 20, 2023, <https://www.uniformlaws.org/committees/community-home?communitykey=1457c422-ddb7-40b0-8c76-39a1991651ac#:~:text=The%202022%20amendments%20to%20the.intelligence%2C%20and%20other%20technological%20developments>
- 2 Uniform Law Commission, "Uniform Commercial Code," [uniformlaws.org](https://www.uniformlaws.org/acts/ucc), accessed March 20, 2023, <https://www.uniformlaws.org/acts/ucc>
- 3 For more evidence and arguments on this point, see Justin Haskins, "Biden is planning a new digital currency. Here's why you should be very worried," *The Hill*, March 26, 2022, <https://thehill.com/opinion/finance/599768-biden-is-planning-a-new-digital-currency-heres-why-you-should-be-very-worried>
- 4 "Executive Order on Ensuring Responsible Development of Digital Assets," [whitehouse.gov](https://www.whitehouse.gov), March 9, 2022, <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/03/09/executive-order-on-ensuring-responsible-development-of-digital-assets>
- 5 "FACT SHEET: White House Releases First-Ever Comprehensive Framework for Responsible Development of Digital Assets," [whitehouse.gov](https://www.whitehouse.gov), September 16, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/16/fact-sheet-white-house-releases-first-ever-comprehensive-framework-for-responsible-development-of-digital-assets>
- 6 Uniform Law Commission and American Law Institute, "Final Act, With Comments: Uniform Commercial Code Amendments (2022)," [uniformlaws.org](https://www.uniformlaws.org), last dated February 21, 2023, accessed March 20, 2023, <https://www.uniformlaws.org/viewdocument/final-act-164?CommunityKey=1457c422-ddb7-40b0-8c76-39a1991651ac&tab=librarydocuments>
- 7 Uniform Law Commission and American Law Institute, "Final Act, With Comments: Uniform Commercial Code Amendments (2022)."
- 8 Uniform Law Commission and American Law Institute, "Final Act, With Comments: Uniform Commercial Code Amendments (2022)."
- 9 Uniform Law Commission and American Law Institute, "Final Act, With Comments: Uniform Commercial Code Amendments (2022)."

About the Author

Justin Haskins is the director of the Socialism Research Center at The Heartland Institute, where he also serves as a research fellow. Haskins is the editor-in-chief of *StoppingSocialism.com* and a prolific writer. His work is regularly published by *FoxNews.com*, *The Hill*, *Newsweek*, and *The Federalist*. Haskins has also appeared on radio and television shows hundreds of times, and his commentary has been featured by major media publications and influential policymakers, including *The Wall Street Journal*, *Chicago Tribune*, *Washington Post*, numerous members of Congress, and the White House. For more information about Justin Haskins, visit [Heartland.org](https://www.heartland.org).



23.3098.01000

ROUGH DRAFT

Sixty-eighth
Legislative Assembly
of North Dakota

CONCURRENT RESOLUTION NO.

Introduced by

Representative Weisz

(Approved by the Delayed Bills Committee)

1 A concurrent resolution urging Congress not to support legislation, or other efforts, relating to
2 the adoption of a Central Bank Digital Currency in the United States.

3 **WHEREAS**, on March 9, 2022, President Joseph R. Biden issued Executive Order 14067,
4 *Ensuring Responsible Development of Digital Assets*, establishing a broad interagency effort to
5 study and develop a United States Central Bank Digital Currency (CBDC); and

6 **WHEREAS**, Executive Order 14067 established an interagency effort to develop "*Policy
7 and Actions Related to United States Central Bank Digital Currencies*"; and

8 **WHEREAS**, Executive Order 14067 states, "within 180 days of the date of this order, the
9 Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, the
10 Secretary of Commerce, the Secretary of Homeland Security, the Director of the Office of
11 Management and Budget, the Director of National Intelligence, and the heads of other relevant
12 agencies, shall submit to the President a report on the future of money and payment systems";
13 and

14 **WHEREAS**, Executive Order 14067 states "the term 'central bank digital currency' or
15 'CBDC' refers to a form of digital money or monetary value, denomination in the national unit of
16 account, that is a direct liability of the central bank"; and

17 **WHEREAS**, Executive Order 14067 requires the Attorney General, together with the
18 Secretary of the Treasury and the Chairman of the Federal Reserve, provide the President a
19 legislative proposal for a CBDC with 210 days of the executive order; and

20 **WHEREAS**, The Federal Reserve bank of New York and 10 financial institutions completed
21 testing of certain features related to a CBDC in 2022; and

22 **WHEREAS**, the CBDC under development and testing pursuant to Executive Order 14067
23 will include programmable design features that will control the ability of a person to freely utilize
24 the CBDC; and

Good morning Mr. Chairman and members of the committee, for the record my name is Senator Bob Paulson, and I represent District 3 in Minot.

This morning I bring SB 2392 for your consideration. The purpose of this bill is to prevent the use of a potential Central Bank Digital Currency within the construct of the Uniform Commercial Code, or UCC.

What is a Central Bank Digital Currency? It is a digital form of central bank money that would be widely available to the general public.

"Central bank money" refers to money that is a liability of the central bank. In the United States, there are currently two types of central bank money: physical currency issued by the Federal Reserve and digital balances held by commercial banks at the Federal Reserve.

While Americans have long held money predominantly in digital form—for example in bank accounts, payment apps or through online transactions—a CBDC would differ from existing digital money available to the general public because a CBDC would be a liability of the Federal Reserve, not of a commercial bank. So the money would no longer be controlled at the bank level, but rather at the federal level.

So why is this bill necessary?

In March of 2022, President Biden signed an Executive order that calls for exploring a US Central Bank Digital Currency (CBDC) by placing urgency on research and development of a potential US CBDC, should issuance be deemed in the national interest.

Last month, Gov. Kristi Noem of SD vetoed a bill over concern that the amended definition of money in the Uniform Commercial Code could pave the way for a CBDC. Folks say that was just political because she's running for president. However, the veto was sustained because there are legislators and citizens that are concerned as well.

Subsequently, Gov. Ron DeSantis asked for legislation to prevent the use of CBDC in Florida. Folks say that's just political because he's also running for president. However, there are legislators passing the bill who are concerned as well.

There is a new program called FedNow that will launch in July and will enable digital payments from the Central Bank directly to individuals.

There is a resolution that has been introduced in the House by Rep Robin Weisz and others that I have provided a copy of. The resolution urges the US Congress not to support legislation or other efforts relating to the adoption of a CBDC in the US.

A CBDC would be programmable and trackable, and concerns include increased surveillance, loss of anonymity, potential restrictions on savings and spending, negative interest rates, automatic tax collection, disintermediation of commercial banks, and the eventual elimination of physical cash, driving the value of physical cash to zero.

There are several national organizations working together on this issue, and I reached out to one of them and asked what the best language would be to address this issue. The bill before you is the result of that conversation.

This bill is directly related to CBDCs, and specifically, the application of CBDCs in Secured Transactions under Uniform Commercial Code (UCC) Article 9.

A US CBDC would be considered a Deposit Account under ND's UCC statutes. Amending the definition of Deposit Account to exclude CBDCs, which is what this bill does, will prevent the use of CBDCs under UCC Article 9 Secured Transactions in ND.

It is important to note that state legislatures are limited in completely stopping a CBDC if/when adopted. A Federal CBDC will be considered legal tender and constitutional supremacy will be used to force the CBDC on the states. ND lawmakers have no say on the adoption of a CBDC by Washington. But we do have a say as to how a CBDC would be incorporated into Secured Transactions in ND.

The Uniform Commercial Code is one area where state legislatures can take action to prevent the adoption of a CBDC, but it is limited to transactions covered by the UCC. This bill amending the UCC statute is a small, but important step.

It is important to note that HB 1082 which amended the UCC earlier this session did not make any changes to Deposit Accounts, the UCC Drafting Committee notes indicate that existing Deposit Account provisions would remain suitable for accounts with a central bank.

In testimony and follow up interaction on HB 1082, supporters of that bill were united in opposition to a US CBDC.

Prof. Zierdt, who is ND's UCC representative and testified on 1082, states that she has concerns over a CBDC and that those concerns were shared by members of the UCC Drafting Committee. The UCC Drafting Committee stated that a CBDC will not fit within the amended UCC categories of electronic money or Controllable Electronic Records (CERs).

A CBDC will be considered a Deposit Account for purposes of UCC Article 9 – according to the UCC Committee this will be the case regardless of whether a CBDC is considered money elsewhere.

Supporters of HB 1082 used the common phrase 'The UCC takes the world as it is' – meaning that the UCC does not take sides or predict the future. SB 2392 acknowledges 1) that a US CBDC does not now exist, 2) that ND intends to clearly state its opposition to a CBDC, 3) this opposition to a CBDC is limited to UCC Article 9 Secured Transactions. However, it also sends a larger message from the state.

The WHEREAS statements of the House resolution on the potential of a CBDC concisely outline how the CBDC process started in Washington, DC and where it is going.

There is obviously debate about the understanding of the UCC and CBDC, but right or wrong, my understanding is that there are 6 states that have defeated the UCC bill, and 7 states are considering amending theirs to address the CBDC issue.

Mr Chairman, that is the bill. I would respectfully ask for a Do Pass and I would be happy to answer any questions that I can.

SB2392

Saturday, April 11, 2023

Patricia A. Leno, District 30

To: House Industry and Business Committee

Please consider the urgent warning given to other states by the Honorable Governor Kristi Noem of South Dakota. Governor Noem was interviewed on Fox News March 11, 2023, titled, Governor Kristi Noem: This is a Threat to our Freedom. After listening to this discussion and hearing how this very bill was handled by our House and Senate, I became alarmed!

I have derived some key parts of this bill as addressed by Governor Noem and listed them below: (Bold print and underlining added by me)

1. "It was sold as an upgrade to the guidelines of the Universal Commercial Code (UCC) backed by all of our financial institutions, our banks, as we started reading through it. We saw the- The section of the bill that **changed the definition of currency**. And essentially what it did was **pave the way for a government-led CBDC (Central Bank Currency) and it also banned any other form of crypto currency that existed**. So, for me, it very clearly was a threat to our freedom."
2. "I believe it's a way to pave the way for the federal government to control our currency and thus control people. **It should be alarming to everyone and it's being sold as an UCC guidelines update**"
3. "I find it ironic we also are having the same discussion the same time **we have we have banks and credit card companies talking about coding gun and ammunition in a separate code so we can track it**. Not only can they tie these two issues together, if the government doesn't approve of what you're purchasing, if they have the only form of currency out there that is endorsed and utilized in the country, **they can control how you spend that money and thus take away all of your freedom.**"
4. "It was alarming to me. It was over 110 pages long. **They (legislators and senators) were told by lobbyists they have listened to for the last 20 years that it's fine**. It's just a regulation update. This is what we do is adopt federal regulations."
5. If you start reading it, you see in there **there's a redefinition of currency**. That it says government, CBDC's are okay if they're run by the government. But any other form is then banned. **It's clearly a change for how people's assets are utilized. It clearly limits people the freedom to use other forms of currency that they choose to if it is a digital currency. And it is clearly putting power in the hands of the government.**"

Throughout her career, Governor Noem has demonstrated a successful effort to serve her citizens well. I have observed how she managed the state of South Dakota during the Covid crisis. She is worth listening to and should be commended for her attempts to warn other states. Let's take heed to this warning and pass SB2392!