

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 987

Introduced by Schumacher, 22.

Read first time January 11, 2018

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to finance; to adopt the Uniform Regulation of
- 2 Virtual-Currency Businesses Act; to provide for licensing and
- 3 registration; and to provide severability.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 34 of this act shall be known and may be
2 cited as the Uniform Regulation of Virtual-Currency Businesses Act.

3 Sec. 2. In the Uniform Regulation of Virtual-Currency Businesses
4 Act:

5 (1) Applicant means a person that applies for a license under the
6 act.

7 (2) Bank means a federally chartered or state-chartered depository
8 institution or holder of a charter granted by the Office of the
9 Comptroller of the Currency to a person engaged in the business of
10 banking other than deposit-taking. The term does not include:

11 (A) an industrial loan company, state-chartered trust company, or a
12 limited purpose trust company unless the department has authorized the
13 company to engage in virtual-currency business activity; or

14 (B) a trust company or limited-purpose trust company chartered by a
15 state with which this state does not have a reciprocity agreement
16 governing trust-company activities.

17 (3) Control means:

18 (A) when used in reference to a transaction or relationship
19 involving virtual currency, power to execute unilaterally or prevent
20 indefinitely a virtual-currency transaction; and

21 (B) when used in reference to a person, the direct or indirect power
22 to direct the management, operations, or policies of the person through
23 legal or beneficial ownership of voting power in the person or under a
24 contract, arrangement, or understanding.

25 (4) Department means the Department of Banking and Finance.

26 (5) Exchange, used as a verb, means to assume control of virtual
27 currency from or on behalf of a resident, at least momentarily, to sell,
28 trade, or convert:

29 (A) virtual currency for legal tender, bank credit, or one or more
30 forms of virtual currency; or

31 (B) legal tender or bank credit for one or more forms of virtual

1 currency.

2 (6) Executive officer means an individual who is a director,
3 officer, manager, managing member, partner, or trustee of a person that
4 is not an individual.

5 (7) Insolvent means:

6 (A) having generally ceased to pay debts in the ordinary course of
7 business other than as a result of a bona fide dispute;

8 (B) being unable to pay debts as they become due; or

9 (C) being insolvent within the meaning of federal bankruptcy law.

10 (8) Legal tender means a medium of exchange or unit of value,
11 including the coin or paper money of the United States, issued by the
12 United States or by another government.

13 (9) Licensee means a person licensed under the act.

14 (10) Person means an individual, partnership, estate, business or
15 nonprofit entity, public corporation, government or governmental
16 subdivision, agency, or instrumentality or other legal entity.

17 (11) Reciprocity agreement means an arrangement between the
18 department and the appropriate licensing agency of another state which
19 permits a licensee operating under a license granted by the other state
20 to engage in virtual-currency business activity with or on behalf of a
21 resident.

22 (12) Record means information that is inscribed on a tangible medium
23 or that is stored in an electronic or other medium and is retrievable in
24 perceivable form.

25 (13) Registrant means a person that has registered with this state
26 under section 11 of this act to conduct virtual-currency business
27 activity.

28 (14) Registration means the ability under section 11 of this act to
29 conduct virtual-currency business activity.

30 (15) Registry means the Nationwide Multistate Licensing System and
31 Registry.

1 (16) Resident:

2 (A) means a person that

3 (i) is domiciled in this state;

4 (ii) is physically located in this state for more than one hundred

5 eighty-three days of the previous three hundred sixty-five days; or

6 (iii) has a place of business in this state; and

7 (B) includes a legal representative of a person that satisfies

8 subdivision (A) of this subdivision.

9 (17) Responsible individual means an individual who has managerial

10 authority with respect to a licensee's or registrant's virtual-currency

11 business activity with or on behalf of a resident.

12 (18) Sign means, with present intent to authenticate or adopt a

13 record:

14 (A) to execute or adopt a tangible symbol; or

15 (B) to attach to or logically associate with the record an

16 electronic symbol, sound, or process.

17 (19) State means a state of the United States, the District of

18 Columbia, Puerto Rico, the United States Virgin Islands, or any territory

19 or insular possession subject to the jurisdiction of the United States.

20 (20) Store, except in the phrase store of value, means to maintain

21 control of virtual currency on behalf of a resident by a person other

22 than the resident. Storage and storing have corresponding meanings.

23 (21) Transfer means to assume control of virtual currency from or on

24 behalf of a resident and to:

25 (A) credit the virtual currency to the account of another person;

26 (B) move the virtual currency from one account of a resident to

27 another account of the same resident; or

28 (C) relinquish control of virtual currency to another person.

29 (22) U.S. Dollar equivalent of virtual currency means the equivalent

30 value of a particular virtual currency in United States dollars shown on

31 a virtual-currency exchange based in the United States for a particular

1 date or period specified in the act.

2 (23) Virtual currency:

3 (A) means a digital representation of value that:

4 (i) is used as a medium of exchange, unit of account, or store of
5 value; and

6 (ii) is not legal tender, whether or not denominated in legal
7 tender; and

8 (B) does not include:

9 (i) a transaction in which a merchant grants, as part of an affinity
10 or rewards program, value that cannot be taken from or exchanged with the
11 merchant for legal tender, bank credit, or virtual currency; or

12 (ii) a digital representation of value issued by or on behalf of a
13 publisher and used solely within an online game, game platform, or family
14 of games sold by the same publisher or offered on the same game platform.

15 (24) Virtual-currency administration means issuing virtual currency
16 with the authority to redeem the currency for legal tender, bank credit,
17 or other virtual currency.

18 (25) Virtual-currency business activity means:

19 (A) exchanging, transferring, or storing virtual currency or
20 engaging in virtual-currency administration, whether directly or through
21 an agreement with a virtual-currency control-services vendor;

22 (B) holding electronic precious metals or electronic certificates
23 representing interests in precious metals on behalf of another person or
24 issuing shares or electronic certificates representing interests in
25 precious metals; or

26 (C) exchanging one or more digital representations of value used
27 within one or more online games, game platforms, or family of games for:

28 (i) virtual currency offered by or on behalf of the same publisher
29 from which the original digital representation of value was received; or

30 (ii) legal tender or bank credit outside the online game, game
31 platform, or family of games offered by or on behalf of the same

1 publisher from which the original digital representation of value was
2 received.

3 (26) Virtual-currency control-services vendor means a person that
4 has control of virtual currency solely under an agreement with a person
5 that, on behalf of another person, assumes control of virtual currency.

6 Sec. 3. (a) Except as otherwise provided in subsection (b) or (c)
7 of this section, the Uniform Regulation of Virtual-Currency Businesses
8 Act governs the virtual-currency business activity of a person, wherever
9 located, that engages in or holds itself out as engaging in the activity
10 with or on behalf of a resident.

11 (b) The act does not apply to the exchange, transfer, or storage of
12 virtual currency or to virtual-currency administration to the extent the
13 Electronic Fund Transfer Act, 15 U.S.C. 1693 to 1693r, the Securities
14 Exchange Act of 1934, 15 U.S.C. 78a to 7800, the Commodity Exchange Act,
15 7 U.S.C. 1 to 27f, as such sections existed on the effective date of this
16 act, or the Securities Act of Nebraska, govern the activity. The Uniform
17 Regulation of Virtual-Currency Businesses Act does not apply to activity
18 by:

19 (1) the United States, a state, political subdivision of a state,
20 agency or instrumentality of federal, state, or local government, or a
21 foreign government or a subdivision, department, agency or
22 instrumentality of a foreign government;

23 (2) a bank;

24 (3) a person engaged in money transmission that:

25 (A) holds a license under the Nebraska Money Transmitters Act;

26 (B) is authorized by the department to engage in virtual-currency
27 business activity; and

28 (C) complies with sections 5 to 20 and 28 to 31 of this act;

29 (4) a person whose participation in a payment system is limited to
30 providing processing, clearing, or performing settlement services solely
31 for transactions between or among persons that are exempt from the

1 licensing or registration requirements of the Uniform Regulation of
2 Virtual-Currency Businesses Act;

3 (5) a person engaged in the business of dealing in foreign exchange
4 to the extent the person's activity meets the definition in 31 C.F.R.
5 1010.605(f)(1)(iv), as such rule existed on the effective date of this
6 act;

7 (6) a person that:

8 (A) contributes only connectivity software or computing power to a
9 decentralized virtual currency, or to a protocol governing transfer of
10 the digital representation of value;

11 (B) provides only data storage or security services for a business
12 engaged in virtual-currency business activity and does not otherwise
13 engage in virtual-currency business activity on behalf of another person;
14 or

15 (C) provides only to a person otherwise exempt from the act virtual
16 currency as one or more enterprise solutions used solely among each other
17 and has no agreement or relationship with a resident that is an end-user
18 of virtual currency;

19 (7) a person using virtual currency, including creating, investing,
20 buying or selling, or obtaining virtual currency as payment for the
21 purchase or sale of goods or services, solely:

22 (A) on its own behalf;

23 (B) for personal, family, or household purposes; or

24 (C) for academic purposes;

25 (8) a person whose virtual-currency business activity with or on
26 behalf of residents is reasonably expected to be valued, in the
27 aggregate, on an annual basis at five thousand dollars or less, measured
28 by the U.S. Dollar equivalent of virtual currency;

29 (9) an attorney to the extent of providing escrow services to a
30 resident;

31 (10) a title insurance company to the extent of providing escrow

1 services to a resident;

2 (11) a securities intermediary, as defined in section 8-102, Uniform
3 Commercial Code, or a commodity intermediary, as defined in section
4 9-102, Uniform Commercial Code, that:

5 (A) does not engage in the ordinary course of business in virtual-
6 currency business activity with or on behalf of a resident in addition to
7 maintaining securities accounts or commodities accounts and is regulated
8 as a securities intermediary or commodity intermediary under federal law,
9 law of this state other than the Uniform Regulation of Virtual-Currency
10 Businesses Act, or law of another state; and

11 (B) affords a resident protections comparable to those set forth in
12 section 29 of this act;

13 (12) a secured creditor under article 9, Uniform Commercial Code, of
14 any state or creditor with a judicial lien or lien arising by operation
15 of law on collateral that is virtual currency, if the virtual-currency
16 business activity of the creditor is limited to enforcement of the
17 security interest in compliance with article 9, Uniform Commercial Code,
18 or lien in compliance with the law applicable to the lien;

19 (13) a virtual-currency control-services vendor; or

20 (14) a person that:

21 (A) does not receive compensation from a resident for:

22 (i) providing virtual-currency products or services; or

23 (ii) conducting virtual-currency business activity; or

24 (B) is engaged in testing products or services with the person's own
25 funds.

26 (c) The department may determine that a person or class of persons,
27 given facts particular to the person or class, should be exempt from the
28 Uniform Regulation of Virtual-Currency Businesses Act, whether or not the
29 person or class is covered by requirements imposed under federal law on a
30 money-service business.

31 Sec. 4. Unless displaced by the particular provisions of the

1 Uniform Regulation of Virtual-Currency Businesses Act, the principles of
2 law and equity supplement its provisions.

3 Sec. 5. A person may not engage in virtual-currency business
4 activity, or hold itself out as being able to engage in virtual-currency
5 business activity, with or on behalf of a resident, unless the person is:

6 (1) licensed in this state by the department under section 6 of this
7 act;

8 (2) licensed in another state to conduct virtual-currency business
9 activity by a state with which this state has a reciprocity agreement and
10 has qualified under section 7 of this act;

11 (3) registered with the department and operating in compliance with
12 section 11 of this act; or

13 (4) exempt from licensure or registration under the Uniform
14 Regulation of Virtual-Currency Businesses Act by subsection (b) or (c) of
15 section 3 of this act.

16 Sec. 6. (a) Except as otherwise provided in section 7 of this act,
17 an application for a license under the Uniform Regulation of Virtual-
18 Currency Businesses Act:

19 (1) must be made in a form and medium prescribed by the department
20 or the registry;

21 (2) except as otherwise provided in subsection (b) of this section,
22 must provide the following information relevant to the applicant's
23 proposed virtual-currency business activity:

24 (A) the legal name of the applicant, each current or proposed
25 business United States Postal Service address of the applicant, and any
26 fictitious or trade name the applicant uses or plans to use in conducting
27 its virtual-currency business activity with or on behalf of a resident;

28 (B) the legal name, any former or fictitious name, and the
29 residential and business United States Postal Service address of each
30 executive officer and responsible individual of the applicant, and each
31 person that has control of the applicant;

1 (C) a description of the current and former business of the
2 applicant for the five years before the application is submitted or if
3 the business has operated for less than five years, for the time the
4 business has operated, including its products and services, associated
5 web site addresses and social media pages, principal place of business,
6 projected user base, and specific marketing targets;

7 (D) the name, United States Postal Service address, and telephone
8 number of a person that manages each server the applicant expects to use
9 in conducting its virtual-currency business activity with or on behalf of
10 a resident and a copy of any agreement with that person;

11 (E) a list of:

12 (i) each money-service or money-transmitter license the applicant
13 holds in another state;

14 (ii) the date the license expires; and

15 (iii) any license revocation, license suspension, or other
16 disciplinary action taken against the applicant in another state and any
17 license applications rejected by another state;

18 (F) a list of any criminal conviction, deferred prosecution
19 agreement, and pending criminal proceeding in any jurisdiction against:

20 (i) the applicant;

21 (ii) each executive officer of the applicant;

22 (iii) each responsible individual of the applicant;

23 (iv) each person that has control over the applicant; and

24 (v) each person over which the applicant has control;

25 (G) a list of any litigation, arbitration, or administrative
26 proceeding in any jurisdiction in which the applicant, or an executive
27 officer or a responsible individual of the applicant, has been a party
28 for the five years before the application is submitted, determined to be
29 material in accordance with generally accepted accounting principles and,
30 to the extent the applicant would be required to disclose the litigation,
31 arbitration, or administrative proceeding in the applicant's audited

1 financial statements, reports to equity owners, and similar statements or
2 reports;

3 (H) a list of any bankruptcy or receivership proceeding in any
4 jurisdiction for the ten years before the application is submitted in
5 which any of the following was a debtor:

6 (i) the applicant;

7 (ii) an executive officer of the applicant;

8 (iii) a responsible individual of the applicant;

9 (iv) a person that has control over the applicant; and

10 (v) a person over which the applicant has control;

11 (I) the name and United States Postal Service address of each bank
12 in which the applicant plans to deposit funds obtained by its virtual-
13 currency business activity;

14 (J) the source of funds and credit to be used by the applicant to
15 conduct virtual-currency business activity with or on behalf of a
16 resident and documentation demonstrating that the applicant has the net
17 worth and reserves required by section 8 of this act;

18 (K) the United States Postal Service address and electronic mail
19 address to which communications from the department may be sent;

20 (L) the name, United States Postal Service address, and electronic
21 mail address of the registered agent of the applicant in this state;

22 (M) a copy of the certificate, or a detailed summary acceptable to
23 the department, of coverage for each liability, casualty, business-
24 interruption, or cyber security insurance policy maintained by the
25 applicant for itself, an executive officer, a responsible individual, or
26 the applicant's users;

27 (N) if applicable, the date on which and the state where the
28 applicant is formed and a copy of a current certificate of good standing
29 issued by that state;

30 (O) if a person has control of the applicant and the person's equity
31 interests are publicly traded in the United States, a copy of the audited

1 financial statement of the person for the most recent fiscal year or most
2 recent report of the person filed under section 13 of the Securities
3 Exchange Act of 1934, 15 U.S.C. 78m, as such section existed on the
4 effective date of this act;

5 (P) if a person has control of the applicant and the person's equity
6 interests are publicly traded outside the United States, a copy of the
7 audited financial statement of the person for the most recent fiscal year
8 of the person or a copy of the most recent documentation similar to that
9 required in subdivision (O) of this subdivision filed with the foreign
10 regulator in the domicile of the person;

11 (Q) if the applicant is a partnership or a member-managed limited-
12 liability company, the names and United States Postal Service addresses
13 of general partners or members;

14 (R) if the applicant is required to register with the Financial
15 Crimes Enforcement Network of the United States Department of the
16 Treasury as a money-service business, evidence of the registration;

17 (S) a set of fingerprints for each executive officer and responsible
18 individual of the applicant;

19 (T) if available, for each executive officer and responsible
20 individual of the applicant, for the five years before the application is
21 submitted:

22 (i) employment history; and

23 (ii) history of any investigation of the individual or legal
24 proceeding to which the individual was a party;

25 (U) the plans through which the applicant will meet its obligations
26 under sections 30 and 31 of this act; and

27 (V) other information the department reasonably requires by rule or
28 regulation; and

29 (3) must be accompanied by a nonrefundable fee in the amount of
30 \$XXX.

31 (b) For good cause, the department may waive a requirement of

1 subsection (a) of this section or permit the applicant to submit other
2 information instead of the required information.

3 (c) An application for a license under this section is not complete
4 until the department receives all information required by the Uniform
5 Regulation of Virtual-Currency Businesses Act and completes its
6 investigation under subsection (d) of this section.

7 (d) On receipt of a completed application:

8 (1) the department shall investigate:

9 (A) the financial condition and responsibility of the applicant;

10 (B) the relevant financial and business experience, character, and
11 general fitness of the applicant; and

12 (C) the competence, experience, character, and general fitness of
13 each executive officer, each responsible individual, and any person that
14 has control of the applicant; and

15 (2) the department may conduct an investigation of the business
16 premises of an applicant.

17 (e) Not later than thirty days after an application is complete, the
18 department shall send the applicant notice of its decision to approve,
19 conditionally approve, or deny the application. If the department does
20 not send the applicant notice of its decision within thirty-one days of
21 completion of the application, the application is deemed denied. If the
22 department does not receive notice from the applicant that the applicant
23 accepts conditions specified by the department within thirty-one days
24 following the department's notice of the conditions, the application is
25 deemed denied.

26 (f) A license takes effect on the later of:

27 (1) the date on which the department issues the license; or

28 (2) the date the licensee provides the security required by section
29 8 of this act.

30 (g) An applicant shall pay the reasonable costs of the department's
31 investigation under this section.

1 Sec. 7. (a) Instead of an application required by section 6 of this
2 act, a person licensed by another state to conduct virtual-currency
3 business activity in that state may file with the registry an application
4 under this section.

5 (b) When an application under this section is filed with the
6 registry, the applicant shall notify the department in a record that the
7 applicant has submitted the application to the registry and shall submit
8 to the department:

9 (1) a certification of license history from the agency responsible
10 for issuing a license in each state in which the applicant has been
11 licensed to conduct virtual-currency business activity;

12 (2) a nonrefundable reciprocal licensing application fee in the
13 amount of \$XXX;

14 (3) documentation demonstrating that the applicant complies with the
15 security and net worth reserve requirements of section 8 of this act; and

16 (4) a certification signed by an executive officer of the applicant
17 affirming that the applicant will conduct its virtual-currency business
18 activity with or on behalf of a resident in compliance with the Uniform
19 Regulation of Virtual-Currency Businesses Act.

20 (c) The department may permit conduct of virtual-currency business
21 activity by an applicant that complies with this section.

22 Sec. 8. (a) Before a license is issued under the Uniform Regulation
23 of Virtual-Currency Businesses Act:

24 (1) an applicant must deposit with the department funds or
25 investment property, a letter of credit, a surety bond, or other security
26 satisfactory to the department that:

27 (A) secures the applicant's faithful performance of its duties under
28 the act; and

29 (B) is in an amount the department specifies based on the nature and
30 extent of risks in the applicant's virtual-currency business model;

31 (2) the department may not require a surety bond as security under

1 the act unless a surety bond is generally available in the state at a
2 commercially reasonable cost;

3 (3) security deposited under this section must be payable to this
4 state for the benefit of a claim against the licensee on account of the
5 licensee's virtual-currency business activity with or on behalf of a
6 resident;

7 (4) security deposited under this section must cover claims for the
8 period the department specifies by rule or regulation and for an
9 additional period the department specifies after the licensee ceases to
10 engage in virtual-currency business activity with or on behalf of a
11 resident;

12 (5) for good cause, the department may require the licensee to
13 increase the amount of security deposited under this section, and the
14 licensee shall deposit the additional security not later than fifteen
15 days after the licensee receives notice in a record of the required
16 increase;

17 (6) for good cause, the department may permit a licensee to
18 substitute or deposit an alternate form of security satisfactory to the
19 department if the licensee at all times complies with this section;

20 (7) a claimant does not have a direct right to recover against
21 security deposited under this section; and

22 (8) only the department may recover against the security, and the
23 department may retain the recovery for no longer than five years and may
24 process claims and distribute recoveries to claimants in accordance with
25 rules and regulations adopted and promulgated by the department under the
26 Nebraska Money Transmitters Act.

27 (b) In addition to the security required under subsection (a) of
28 this section, a licensee and a registrant, at the time of the application
29 for a license under this act or filing of registration, shall submit to
30 the department evidence of and maintain:

31 (1) a minimum net worth of twenty-five thousand dollars; and

1 (2) sufficient unencumbered reserves for winding down the licensee's
2 or registrant's operations as agreed to by the department considering the
3 nature and size of expected virtual-currency business activity with or on
4 behalf of residents.

5 (c) A licensee or registrant may include in its calculation of net
6 worth virtual currency, measured by the average value of the virtual
7 currency in U.S. Dollar equivalent over the prior six months, other than
8 the virtual currency over which it has control for a resident entitled to
9 the protections under section 29 of this act.

10 (d) For good cause, the department may require a licensee or
11 registrant to increase the net worth or reserves required under this
12 section. The licensee or registrant shall submit to the department
13 evidence that it has the additional net worth or reserves not later than
14 fifteen days after the licensee or registrant receives notice in a record
15 of the required increase.

16 Sec. 9. (a) Absent good cause, the department shall issue a license
17 to an applicant if the applicant complies with sections 5 to 13 of this
18 act and pays the costs of the investigation under subsection (g) of
19 section 6 of this act and the initial licensee fee under subdivision (a)
20 (3) of section 6 of this act in an amount required by law or specified by
21 the department by rule or regulation.

22 (b) An applicant may appeal a denial of its application under
23 section 6 or 7 of this act under the Administrative Procedure Act not
24 later than thirty days after:

25 (1) the department notifies the applicant of the denial; or

26 (2) the application is deemed denied.

27 Sec. 10. (a) Subject to subsection (g) of this section, not later
28 than fifteen days before the anniversary date of issuance of its license
29 under the Uniform Regulation of Virtual-Currency Businesses Act, a
30 licensee may apply for renewal of the license by:

31 (1) paying a renewal fee of \$XXX; and

1 (2) submitting to the department a renewal report under subsection
2 (b) of this section.

3 (b) A renewal report required by subdivision (a)(2) of this section
4 must be submitted in a form and medium prescribed by the department. The
5 report must contain:

6 (1) a copy of the licensee's most recent:

7 (A) reviewed annual financial statement if the licensee's virtual-
8 currency business activity in this state was \$XXX or less for the fiscal
9 year ending before the anniversary date of issuance of its license under
10 the act; or

11 (B) audited annual financial statement if the licensee's virtual-
12 currency business activity in this state amounted to more than \$XXX for
13 the fiscal year ending before the anniversary date;

14 (2) if a person other than an individual has control of the
15 licensee, a copy of the person's most recent:

16 (A) reviewed annual financial statement if the person's gross
17 revenue was \$XXX or less in the previous fiscal year, measured as of the
18 anniversary date of issuance of its license under the act; or

19 (B) audited consolidated annual financial statement if the person's
20 gross revenue was more than \$XXX in the previous fiscal year, measured as
21 of the anniversary date of issuance of its license under the act;

22 (3) a description of any:

23 (A) material change in the financial condition of the licensee;

24 (B) material litigation involving the licensee or an executive
25 officer or responsible individual of the licensee;

26 (C) license suspension or revocation proceeding commenced, or other
27 action taken, involving a license to conduct virtual-currency business
28 activity issued by another state on which reciprocal licensing is based;

29 (D) federal or state investigation involving the licensee; and

30 (E) data security breach involving the licensee;

31 (4) information or records required by section 18 of this act the

1 licensee has not reported to the department;

2 (5) the number of virtual-currency business activity transactions
3 with or on behalf of residents for the period since, subject to
4 subsection (g) of this section, the later of the date the license was
5 issued or the date the last renewal report was submitted;

6 (6) the:

7 (A) amount of U.S. Dollar equivalent of virtual currency in the
8 control of the licensee at, subject to subsection (g) of this section,
9 the end of the last month that ends not later than thirty days before the
10 date of the renewal report; and

11 (B) total number of residents for whom the licensee had control of
12 U.S. Dollar equivalent of virtual currency on that date;

13 (7) evidence that the licensee continues to satisfy section 29 of
14 this act;

15 (8) evidence that the licensee continues to satisfy section 8 of
16 this act;

17 (9) a list of each location where the licensee operates its virtual-
18 currency business activity; and

19 (10) the name, United States Postal Service address, and telephone
20 number of each person that manages a server used by the licensee in
21 conducting its virtual-currency business activity with or on behalf of a
22 resident.

23 (c) If a licensee does not timely comply with subsection (a) of this
24 section, the department may use enforcement measures provided under
25 sections 21 to 27 of this act. Notice or hearing is not required for a
26 suspension or revocation of a license under the act for failure to pay a
27 renewal fee or file a renewal report.

28 (d) If the department suspends or revokes a license under the act
29 for noncompliance with subsection (a) of this section, the department may
30 end the suspension or rescind the revocation and notify the licensee of
31 the action if, subject to subsection (g) of this section, not later than

1 twenty days after the license was suspended or revoked, the licensee:

2 (1) files a renewal report and pays a renewal fee; and

3 (2) pays any penalty assessed under section 24 of this act.

4 (e) The department shall give prompt notice to a licensee of the
5 lifting of a suspension or rescission of a revocation after the licensee
6 complies with subsection (d) of this section.

7 (f) Suspension or revocation of a license under this section does
8 not invalidate a transfer or exchange of virtual currency for or on
9 behalf of a resident made during the suspension or revocation and does
10 not insulate the licensee from liability under the act.

11 (g) For good cause, the department may extend a period under this
12 section.

13 (h) The department shall review the renewal of a license issued
14 under section 7 of this act to ensure that the state that issued the
15 original license has not suspended, revoked, or limited the license.

16 (i) A licensee that does not comply with this section shall cease
17 operations with or on behalf of a resident on or before the anniversary
18 date of issuance of its license under the act.

19 (j) A licensee shall pay the reasonable and necessary costs of the
20 department's investigation under this section.

21 Sec. 11. (a) A person whose volume of virtual-currency business
22 activity in U.S. Dollar equivalent of virtual currency will not exceed
23 thirty-five thousand dollars annually may engage in virtual-currency
24 business activity with or on behalf of a resident under a registration
25 without first obtaining a license under the Uniform Regulation of
26 Virtual-Currency Businesses Act if the person:

27 (1) files with the department a notice in the form and medium
28 prescribed by the department of its intention to engage in virtual-
29 currency business activity with or on behalf of a resident;

30 (2) provides the information for an investigation under section 6 of
31 this act;

1 (3) states the anticipated virtual-currency business activity for
2 its next fiscal quarter;

3 (4) pays the department a registration fee in the amount of \$XXX;

4 (5) if required to register with the Financial Crimes Enforcement
5 Network of the United States Department of the Treasury as a money-
6 service business, provides the department evidence of the registration;

7 (6) provides evidence that the person has policies and procedures to
8 comply with the Bank Secrecy Act, 31 U.S.C. 5311 et seq., as such act
9 existed on the effective date of this act, and other applicable laws;

10 (7) describes the source of funds and credit to be used by the
11 person to conduct virtual-currency business activity with or on behalf of
12 a resident and provides evidence of and agrees to maintain the minimum
13 net worth and reserves required by section 8 of this act and sufficient
14 unencumbered reserves for winding down operations;

15 (8) provides the department with evidence that the person has in
16 place policies and procedures to comply with sections 14 to 20 and 28 to
17 31 of this act and other provisions of the act designated by the
18 department; and

19 (9) provides the department with a copy of its most recent financial
20 statement, whether reviewed or audited.

21 (b) Before the virtual-currency business activity of a registrant
22 with or on behalf of residents exceeds thirty-five thousand dollars
23 annually in U.S. Dollar equivalent of virtual currency, the registrant
24 shall file an application for a license under the act and may continue to
25 operate after the activity exceeds thirty-five thousand dollars annually
26 while its application for license is pending.

27 (c) For good cause, the department may suspend or revoke a
28 registration without a prior hearing or opportunity to be heard.

29 (d) A registrant shall cease all virtual-currency business activity
30 with or on behalf of residents:

31 (1) if the department denies the registrant's application for a

1 license under the act, one day after the registrant receives notice in a
2 record that the department has denied the application;

3 (2) if the department suspends or revokes the registration, one day
4 after the department sends notice of the suspension or revocation to the
5 registrant in a record by a means reasonably selected for the notice to
6 be received by the recipient in one day, to the address provided for
7 receiving communications from the department;

8 (3) if the virtual-currency business activity of the registrant with
9 or on behalf of residents exceeds thirty-five thousand dollars annually
10 in U.S. Dollar equivalent of virtual currency and the registrant has not
11 filed an application for a license under the act; or

12 (4) on the second anniversary date of the registration.

13 Sec. 12. A license or registration under the Uniform Regulation of
14 Virtual-Currency Businesses Act is not transferable or assignable.

15 Sec. 13. The department may adopt and promulgate rules and
16 regulations to implement the Uniform Regulation of Virtual-Currency
17 Businesses Act and issue guidance as appropriate.

18 Sec. 14. (a) The department may conduct an annual examination of a
19 licensee or registrant. For good cause, the department may conduct an
20 additional examination. The department may examine a licensee or
21 registrant without prior notice to the licensee or registrant.

22 (b) A licensee or registrant shall pay the reasonable and necessary
23 costs of an examination under this section.

24 (c) Information obtained during an examination under sections 14 to
25 20 of this act may be disclosed only as provided in section 17 of this
26 act.

27 Sec. 15. (a) A licensee or registrant shall maintain, for all
28 virtual-currency business activity with or on behalf of a resident five
29 years after the date of the activity, a record of:

30 (1) each transaction of the licensee or registrant with or on behalf
31 of the resident or for the licensee's or registrant's account in this

1 state, including:

2 (A) the identity of the resident;

3 (B) the form of the transaction;

4 (C) the amount, date, and payment instructions given by the
5 resident; and

6 (D) the account number, name, and United States Postal Service
7 address of the resident, and, to the extent feasible, other parties to
8 the transaction;

9 (2) the aggregate number of transactions and aggregate value of
10 transactions by the licensee or registrant with or on behalf of the
11 resident and for the licensee's or registrant's account in this state,
12 expressed in U.S. Dollar equivalent of virtual currency for the previous
13 twelve calendar months;

14 (3) each transaction in which the licensee or registrant exchanges
15 one form of virtual currency for legal tender or another form of virtual
16 currency with or on behalf of the resident;

17 (4) a general ledger posted at least monthly that lists all assets,
18 liabilities, capital, income, and expenses of the licensee or registrant;

19 (5) each business-call report the licensee or registrant is required
20 to create or provide to the department or registry;

21 (6) bank statements and bank reconciliation records for the licensee
22 or registrant and the name, account number, and United States Postal
23 Service address of each bank the licensee or registrant uses in the
24 conduct of its virtual-currency business activity with or on behalf of
25 the resident;

26 (7) a report of any dispute with the resident; and

27 (8) a report of any virtual-currency business activity transaction
28 with or on behalf of a resident which the licensee or registrant was
29 unable to complete.

30 (b) A licensee or registrant shall maintain records required by
31 subsection (a) of this section in a form that enables the department to

1 determine whether the licensee or registrant is in compliance with the
2 act, any court order, and law of this state other than the act.

3 (c) If a licensee or registrant maintains records outside this state
4 that pertain to transactions with or on behalf of a resident, the
5 licensee or registrant shall make the records available to the department
6 not later than three days after request, or, on a determination of good
7 cause by the department, at a later time.

8 (d) All records maintained by a licensee or registrant are subject
9 to inspection by the department.

10 Sec. 16. (a) Subject to section 17 of this act and law of this
11 state other than the Uniform Regulation of Virtual-Currency Businesses
12 Act concerning privacy, consumer financial privacy, data protection,
13 privilege, and confidentiality, the department may cooperate, coordinate,
14 jointly examine, consult, and share records and other information with
15 the appropriate regulatory agency of another state, a self-regulatory
16 organization, a federal or state regulator of banking or nondepository
17 providers, or a regulator of a jurisdiction outside the United States,
18 concerning the affairs and conduct of a licensee or registrant in this
19 state.

20 (b) The department shall:

21 (1) establish or participate in, with another state that enacts a
22 law substantially similar to the act, a central depository for filings
23 required by law of this state other than the act;

24 (2) cooperate in developing and implementing uniform forms for
25 applications and renewal reports and the conduct of joint administrative
26 proceedings and civil actions;

27 (3) formulate joint rules, regulations, forms, statements of policy,
28 and guidance and interpretative opinions and releases; and

29 (4) develop common systems and procedures.

30 (c) The department may not establish or participate in a central
31 commercial depository that contains nonpublic personally identifiable

1 information which does not comply with section 502(e)(5) or (8) of the
2 Gramm-Leach-Bliley Act, 15 U.S.C. 6802(e)(5) or (8), as such subdivisions
3 existed on the effective date of this act, or with the Right to Financial
4 Privacy Act of 1978, 12 U.S.C. 3401 et seq., as such act existed on the
5 effective date of this act.

6 (d) In deciding whether and how to cooperate, coordinate, jointly
7 examine, consult, or share records and other information under subsection
8 (a) of this section, the department shall consider:

9 (1) maximizing effectiveness and uniformity of regulation,
10 examination, implementation, and enforcement for the benefit of residents
11 and licensees and registrants; and

12 (2) minimizing burdens on licensees and registrants without
13 adversely affecting protection for residents.

14 Sec. 17. (a) Except as otherwise provided in subsection (b) or (c)
15 of this section, information not contained in a report otherwise
16 available to the public or reports obtained by the department from an
17 applicant, licensee, or registrant; information contained in or related
18 to an examination, investigation, or operating or condition report
19 prepared by, on behalf of, or for the use of the department; and other
20 financial and operating information is not subject to disclosure pursuant
21 to sections 84-712 to 84-712.09. If the department determines the
22 information or records are confidential under the open records law of a
23 reciprocal-licensing state, the information or records may not be
24 disclosed.

25 (b) A trade secret of an applicant, a licensee, or a registrant is
26 confidential and is not subject to disclosure pursuant to sections 84-712
27 to 84-712.09. If the department determines a trade secret is confidential
28 under the open records law of a reciprocal-licensing state, the trade
29 secret may not be disclosed.

30 (c) Subsection (a) of this section does not prohibit disclosure of:

31 (1) general information about a licensee's or registrant's virtual-

1 currency business activity with or on behalf of a resident;

2 (2) a list of persons licensed or registered under the Uniform
3 Regulation of Virtual-Currency Businesses Act; or

4 (3) aggregated financial data concerning licensees or registrants in
5 this state.

6 Sec. 18. (a) Each licensee and registrant shall file with the
7 department a report of:

8 (1) a material change in information in the application for a
9 license under the Uniform Regulation of Virtual-Currency Businesses Act
10 or a registration or the most recent renewal report of the licensee under
11 the act or for the registrant;

12 (2) a material change in the licensee's or registrant's business for
13 the conduct of its virtual-currency business activity with or on behalf
14 of a resident; and

15 (3) a change of an executive officer, responsible individual, or
16 person in control of the licensee or registrant.

17 (b) Absent good cause, a report required by subsection (a) of this
18 section must be filed not later than fifteen days after the change.

19 Sec. 19. (a) In this section, proposed person to be in control
20 means the person that would control a licensee or registrant after a
21 proposed transaction that would result in a change in control of the
22 licensee or registrant.

23 (b) The following rules apply in determining whether a person has
24 control over a licensee or registrant:

25 (1) there is a rebuttable presumption of control if the person's
26 voting power in the licensee or registrant constitutes or will constitute
27 at least twenty-five percent of the total voting power of the licensee or
28 registrant.

29 (2) there is a rebuttable presumption of control if:

30 (A) the person's voting power in another person constitutes or will
31 constitute at least ten percent of the total voting power of the other

1 person; and

2 (B) the other person's voting power in the licensee or registrant
3 constitutes at least twenty-five percent of the total voting power of the
4 licensee or registrant.

5 (3) There is no presumption of control solely because an individual
6 is an executive officer of the licensee or registrant.

7 (c) At least thirty days before a proposed change in control of a
8 licensee or registrant, the proposed person to be in control shall submit
9 to the department in a record:

10 (1) an application in a form and medium prescribed by the
11 department;

12 (2) the information and records that section 6 of this act would
13 require if the proposed person to be in control already had control of
14 the licensee;

15 (3) a license application under section 6 of this act by the
16 proposed person to be in control;

17 (4) in the case of a registrant, the information that section 11 of
18 this act would require if the proposed person to be in control already
19 had control of the registrant; and

20 (5) in the case of a registration, a registration under section 11
21 of this act by the proposed person to be in control.

22 (d) The department, in accordance with section 6 of this act, shall
23 approve, approve with conditions, or deny an application for a change in
24 control of a licensee or registrant. The department, in a record, shall
25 send notice of its decision to the licensee or registrant and the person
26 that would be in control if the department had approved the change in
27 control. If the department denies the application, the licensee or
28 registrant shall abandon the proposed change in control or cease virtual-
29 currency business activity with or on behalf of residents.

30 (e) If the department applies a condition to approval of a change in
31 control of a licensee or registrant and the department does not receive

1 notice of the applicant's acceptance of the condition specified by the
2 department not later than thirty-one days after the department sends
3 notice of the condition, the application is deemed denied. If the
4 application is deemed denied, the licensee or registrant shall abandon
5 the proposed change in control or cease virtual-currency business
6 activity with or on behalf of residents.

7 (f) Submission in good faith of records required by subsection (c)
8 of this section relieves the proposed person to be in control from any
9 obligation imposed by this section other than subsections (d), (e), and
10 (h) of this section until the department has acted on the application.

11 (g) The department may revoke or modify a determination under
12 subsection (d) of this section, after notice and opportunity to be heard,
13 if, in its judgment, revocation or modification is consistent with the
14 Uniform Regulation of Virtual-Currency Businesses Act.

15 (h) If a change in control of a licensee or registrant requires
16 approval of an agency of this state or another state with which this
17 state has a reciprocity agreement and the action of the other agency
18 conflicts with that of the department, the department shall confer with
19 the other agency. If the proposed change in control cannot be completed
20 because the conflict cannot be resolved, the licensee or registrant shall
21 abandon the change in control or cease virtual-currency business activity
22 with or on behalf of residents.

23 Sec. 20. (a) At least thirty days before a proposed merger or
24 consolidation of a licensee or registrant with another person, the
25 licensee or registrant shall submit to the department in a record:

26 (1) an application in a form and medium prescribed by the
27 department;

28 (2) the plan of merger or consolidation in accordance with
29 subsection (e) of this section;

30 (3) in the case of a licensee, the information required by section 6
31 of this act concerning the person that would be the surviving entity in

1 the proposed merger or consolidation; and

2 (4) in the case of a registrant, the information required by section
3 11 of this act concerning the person that would be the surviving entity
4 in the proposed merger or consolidation.

5 (b) If a proposed merger or consolidation would change the control
6 of a licensee or registrant, the licensee or registrant shall comply with
7 section 19 of this act and this section.

8 (c) The department, in accordance with section 6 of this act, shall
9 approve, conditionally approve, or deny an application for approval of a
10 merger or consolidation of a licensee or registrant. The department, in a
11 record, shall send notice of its decision to the licensee or registrant
12 and the person that would be the surviving entity. If the department
13 denies the application, the licensee or registrant shall abandon the
14 merger or consolidation or cease virtual-currency business activity with
15 or on behalf of residents.

16 (d) The department may revoke or modify a determination under
17 subsection (c) of this section, after notice and opportunity to be heard,
18 if, in its judgment, revocation or modification is consistent with the
19 Uniform Regulation of Virtual-Currency Businesses Act.

20 (e) A plan of merger or consolidation of a licensee or a registrant
21 with another person must:

22 (1) describe the effect of the proposed transaction on the
23 licensee's or registrant's conduct of virtual-currency business activity
24 with or on behalf of residents;

25 (2) identify each person to be merged or consolidated and the person
26 that would be the surviving entity; and

27 (3) describe the terms and conditions of the merger or consolidation
28 and the mode of carrying it into effect.

29 (f) If a merger or consolidation of a licensee or registrant and
30 another person requires approval of an agency of this state or another
31 state with which this state has a reciprocity agreement and the action of

1 the other agency conflicts with that of the department, the department
2 shall confer with the other agency. If the proposed merger or
3 consolidation cannot be completed because the conflict cannot be
4 resolved, the licensee or registrant shall abandon the merger or
5 consolidation or cease virtual-currency business activity with or on
6 behalf of residents.

7 (g) The department may condition approval of an application under
8 subsection (a) of this section. If the department does not receive notice
9 from the parties that the parties accept the department's condition not
10 later than thirty-one days after the department sends notice in a record
11 of the condition, the application is deemed denied. If the application is
12 deemed denied, the licensee or registrant shall abandon the merger or
13 consolidation or cease virtual-currency business activity with or on
14 behalf of residents.

15 (h) If a licensee or registrant acquires substantially all the
16 assets of a person, whether or not the person's license was approved by
17 or registration was filed with the department, the transaction is subject
18 to this section.

19 (i) Submission in good faith of the records required by subsection
20 (e) of this section relieves the proposed surviving entity from any
21 obligation imposed by this section, other than subsections (c), (f), and
22 (g) of this section, until the department has acted on the application.

23 Sec. 21. In sections 21 to 27 of this act, enforcement measure
24 means an action to:

25 (1) suspend or revoke a license or a registration under the Uniform
26 Regulation of Virtual-Currency Businesses Act;

27 (2) order a person to cease and desist from doing virtual-currency
28 business activity with or on behalf of a resident;

29 (3) request the court to appoint a receiver for the assets of a
30 person doing virtual-currency business activity with or on behalf of a
31 resident;

1 (4) request the court to issue temporary, preliminary, or permanent
2 injunctive relief against a person doing virtual-currency business
3 activity with or on behalf of a resident;

4 (5) assess a penalty under section 24 of this act;

5 (6) recover on the security under section 8 of this act and initiate
6 a plan to distribute the proceeds for the benefit of a resident injured
7 by a violation of the act or law of this state other than the act which
8 applies to virtual-currency business activity with or on behalf of a
9 resident; or

10 (7) impose necessary or appropriate conditions on the conduct of
11 virtual-currency business activity with or on behalf of a resident.

12 Sec. 22. (a) The department may take an enforcement measure against
13 a licensee, registrant, or person that is neither a licensee nor
14 registrant but is engaging in virtual-currency business activity with or
15 on behalf of a resident if:

16 (1) the licensee, registrant, or person materially violates the
17 Uniform Regulation of Virtual-Currency Businesses Act, a rule or
18 regulation adopted and promulgated or order issued under the act, or law
19 of this state other than the act which applies to virtual-currency
20 business activity of the violator with or on behalf of a resident;

21 (2) the licensee, registrant, or person does not cooperate
22 substantially with an examination or investigation by the department,
23 fails to pay a fee, or fails to submit a report or documentation;

24 (3) the licensee, registrant, or person, in the conduct of its
25 virtual-currency business activity with or on behalf of a resident,
26 engages in:

27 (A) an unsafe or unsound act or practice;

28 (B) an unfair or deceptive act or practice;

29 (C) fraud or intentional misrepresentation;

30 (D) another dishonest act; or

31 (E) misappropriation of legal tender, virtual currency, or other

1 value held by a fiduciary;

2 (4) an agency of the United States or another state takes an action
3 against the licensee, registrant, or person which would constitute an
4 enforcement measure if the department had taken the action;

5 (5) the licensee, registrant, or person is convicted of a crime
6 related to its virtual-currency business activity with or on behalf of a
7 resident or involving fraud or felonious activity that, as determined by
8 the department, makes the licensee, registrant, or person unsuitable to
9 engage in virtual-currency business activity;

10 (6) the licensee, registrant, or person:

11 (A) becomes insolvent;

12 (B) makes a general assignment for the benefit of its creditors;

13 (C) becomes the debtor, alleged debtor, respondent, or person in a
14 similar capacity in a case or other proceeding under any bankruptcy,
15 reorganization, arrangement, readjustment, insolvency, receivership,
16 dissolution, liquidation, or similar law, and does not obtain from the
17 court, within a reasonable time, confirmation of a plan or dismissal of
18 the case or proceeding; or

19 (D) applies for or permits the appointment of a receiver, trustee,
20 or other agent of a court for itself or for a substantial part of its
21 assets; or

22 (7) the licensee, registrant, or person makes a material
23 misrepresentation to the department.

24 (b) On application and for good cause, the department may:

25 (1) extend the due date for filing a document or report under
26 subdivision (2) of subsection (a) of this section; or

27 (2) waive to the extent warranted by circumstances, such as a bona
28 fide error notwithstanding reasonable procedures designed to prevent
29 error, an enforcement measure under subsection (a) of this section if the
30 department determines that the waiver will not adversely affect the
31 likelihood of compliance with the act.

1 (c) In an enforcement action related to operating without a license
2 under the act or registration in this state, it is a defense to the
3 action that the person has in effect a customer identification program
4 reasonably designed to identify whether a customer is a resident, which
5 failed to identify the particular customer as a resident.

6 (d) A proceeding under the act is subject to the Administrative
7 Procedure Act.

8 Sec. 23. (a) Except as otherwise provided in subsection (b) of this
9 section, the department may take an enforcement measure only after notice
10 and opportunity for a hearing appropriate in the circumstances.

11 (b) The department may take an enforcement measure other than the
12 imposition of a civil penalty under section 24 of this act:

13 (1) without notice if the circumstances require action before notice
14 can be given;

15 (2) after notice and without a prior hearing if the circumstances
16 require action before a hearing can be held; or

17 (3) after notice and without a hearing if the person conducting
18 virtual-currency business activity with or on behalf of a resident does
19 not timely request a hearing.

20 (c) If the department takes action under subdivision (b)(1) or (2)
21 of this section, the person subject to the enforcement measure has the
22 right to an expedited post-action hearing by the department unless the
23 person has waived the hearing.

24 Sec. 24. (a) If a person other than a licensee or registrant
25 engages in virtual-currency business activity with or on behalf of a
26 resident in violation of the Uniform Regulation of Virtual-Currency
27 Businesses Act, the department may assess a civil penalty against the
28 person in an amount not to exceed fifty thousand dollars for each day of
29 violation.

30 (b) If a licensee or registrant materially violates a provision of
31 the act, the department may assess a civil penalty in an amount not to

1 exceed ten thousand dollars for each day of violation.

2 (c) A civil penalty under this section continues to accrue until the
3 earlier of:

4 (1) the date the violation ceases; or

5 (2) a date specified by the department.

6 Sec. 25. (a) Revocation of a license under the Uniform Regulation
7 of Virtual-Currency Businesses Act is effective against a licensee one
8 day after the department sends notice in a record of the revocation to
9 the licensee, by a means reasonably selected for the notice to be
10 received by the recipient in one day, to the address provided for
11 receiving communications from the department.

12 (b) Suspension of a license under the act, suspension of a
13 registration, or an order to cease and desist is effective against a
14 licensee, registrant, or other person one day after the department sends
15 notice in a record of the suspension or order to the licensee,
16 registrant, or other person, by a means reasonably selected for the
17 notice to be received by the recipient in one day, to the address
18 provided for receiving communications from the department or, if no
19 address is provided, to the recipient's last-known address. A suspension
20 or order to cease and desist remains in effect until the earliest of:

21 (1) entry of an order by the department under the Administrative
22 Procedure Act setting aside or limiting the suspension or order;

23 (2) entry of a court order setting aside or limiting the suspension
24 or order to cease and desist; or

25 (3) a date specified by the department.

26 (c) If, without reason to know of the department's notice sent under
27 subsection (a) or (b) of this section, a licensee, registrant, or other
28 person does not comply in accordance with the notice until the notice is
29 actually received at the address provided, the department may consider
30 the delay in compliance in imposing a sanction for the failure.

31 Sec. 26. The department may enter into a consent order with a

1 person regarding an enforcement measure. The order may provide that it
2 does not constitute an admission of fact by a party.

3 Sec. 27. (a) Except as otherwise provided in this section, a person
4 does not have a right of action for violation of the Uniform Regulation
5 of Virtual-Currency Businesses Act.

6 (b) The department may bring an action for restitution on behalf of
7 a resident if the department proves economic injury due to a violation of
8 the act.

9 (c) This section does not preclude an action by a resident to
10 enforce rights under section 29 of this act or law of this state other
11 than the act.

12 Sec. 28. (a) A licensee or registrant shall provide to a resident
13 who uses the licensee's or registrant's products or service the
14 disclosures required by subsection (b) of this section and any additional
15 disclosure the department by rule or regulation determines reasonably
16 necessary for the protection of residents. The department shall determine
17 by rule or regulation the time and form required for disclosure. A
18 disclosure required by this section must be made separately from any
19 other information provided by the licensee or registrant and in a clear
20 and conspicuous manner in a record the resident may keep. A licensee or
21 registrant may propose for the department's approval alternate
22 disclosures as more appropriate for its virtual-currency business
23 activity with or on behalf of residents.

24 (b) Before establishing a relationship with a resident, a licensee
25 or registrant shall disclose, to the extent applicable to the virtual-
26 currency business activity the licensee or registrant will undertake with
27 the resident:

28 (1) a schedule of fees and charges the licensee or registrant may
29 assess, the manner by which fees and charges will be calculated if they
30 are not set in advance and disclosed, and the timing of the fees and
31 charges;

1 (2) whether the product or service provided by the licensee or
2 registrant is covered by:

3 (A) a form of insurance or is otherwise guaranteed against loss by
4 an agency of the United States:

5 (i) up to the full U.S. Dollar equivalent of virtual currency placed
6 under the control of or purchased from the licensee or registrant as of
7 the date of the placement or purchase, including the maximum amount
8 provided by insurance under the Federal Deposit Insurance Corporation or
9 otherwise available from the Securities Investor Protection Act of 1970,
10 15 U.S.C. 78aaa et seq., as the act existed on the effective date of this
11 act; or

12 (ii) if not provided at the full U.S. Dollar equivalent of virtual
13 currency placed under the control of or purchased from the licensee or
14 registrant, the maximum amount of coverage for each resident expressed in
15 the U.S. Dollar equivalent of the virtual currency; or

16 (B) private insurance against theft or loss, including cyber theft
17 or theft by other means;

18 (3) the irrevocability of a transfer or exchange and any exception
19 to irrevocability;

20 (4) a description of:

21 (A) liability for an unauthorized, mistaken, or accidental transfer
22 or exchange;

23 (B) the resident's responsibility to provide notice to the licensee
24 or registrant of the transfer or exchange;

25 (C) the basis for any recovery by the resident from the licensee or
26 registrant;

27 (D) general error-resolution rights applicable to the transfer or
28 exchange; and

29 (E) the method for the resident to update the resident's contact
30 information with the licensee or registrant;

31 (5) that the date or time when the transfer or exchange is made and

1 the resident's account is debited may differ from the date or time when
2 the resident initiates the instruction to make the transfer or exchange;

3 (6) whether the resident has a right to stop a preauthorized payment
4 or revoke authorization for a transfer and the procedure to initiate a
5 stop-payment order or revoke authorization for a subsequent transfer;

6 (7) the resident's right to receive a receipt, trade ticket, or
7 other evidence of the transfer or exchange;

8 (8) the resident's right to at least thirty days' prior notice of a
9 change in the licensee's or registrant's fee schedule, other terms and
10 conditions of operating its virtual-currency business activity with the
11 resident, and the policies applicable to the resident's account; and

12 (9) that virtual currency is not legal tender.

13 (c) Except as otherwise provided in subsection (d) of this section,
14 at the conclusion of a virtual-currency transaction with or on behalf of
15 a resident, a licensee or registrant shall provide the resident a
16 confirmation in a record which contains:

17 (1) the name and contact information of the licensee or registrant,
18 including information the resident may need to ask a question or file a
19 complaint;

20 (2) the type, value, date, precise time, and amount of the
21 transaction; and

22 (3) the fee charged for the transaction, including any charge for
23 conversion of virtual currency to legal tender, bank credit, or other
24 virtual currency.

25 (d) If a licensee or registrant discloses that it will provide a
26 daily confirmation in the initial disclosure under subsection (c) of this
27 section, the licensee or registrant may elect to provide a single, daily
28 confirmation for all transactions with or on behalf of a resident on that
29 day instead of a per-transaction confirmation.

30 Sec. 29. (a) A licensee or registrant that has control of virtual
31 currency for one or more persons shall maintain in its control an amount

1 of each type of virtual currency sufficient to satisfy the aggregate
2 entitlements of the persons to the type of virtual currency.

3 (b) If a licensee or registrant violates subsection (a) of this
4 section, the property interests of the persons in the virtual currency
5 are pro rata property interests in the type of virtual currency to which
6 the persons are entitled, without regard to the time the persons became
7 entitled to the virtual currency or the licensee or registrant obtained
8 control of the virtual currency.

9 (c) The virtual currency referred to in this section is:

10 (1) held for the persons entitled to the virtual currency;

11 (2) not property of the licensee or registrant; and

12 (3) not subject to the claims of creditors of the licensee or
13 registrant.

14 Sec. 30. (a) An applicant, before submitting an application, and a
15 registrant, before registering, shall create and, during licensure or
16 registration, maintain in a record policies and procedures for:

17 (1) an information-security and operational-security program;

18 (2) a business-continuity program;

19 (3) a disaster-recovery program;

20 (4) an anti-fraud program;

21 (5) an anti-money-laundering program;

22 (6) a program to prevent funding of terrorist activity; and

23 (7) a program designed to:

24 (A) ensure compliance with the Uniform Regulation of Virtual-
25 Currency Businesses Act, law of this state other than the act, and
26 federal law, which are relevant to the virtual-currency business activity
27 contemplated by the licensee or registrant with or on behalf of
28 residents; and

29 (B) assist the licensee or registrant in achieving the purposes of
30 law of this state other than the act and federal law if violation of that
31 law has a remedy under the act.

1 (b) Each policy required by subsection (a) of this section must be
2 in a record and designed to be adequate for a licensee's or registrant's
3 contemplated virtual-currency business activity with or on behalf of
4 residents, considering the circumstances of all participants and the safe
5 operation of the activity. Each policy and implementing procedure must be
6 compatible with other policies and the procedures implementing them and
7 not conflict with policies or procedures applicable to the licensee or
8 registrant under law of this state other than the act. A policy and
9 implementing procedure may be one in existence in the licensee's or
10 registrant's virtual-currency business activity with or on behalf of
11 residents.

12 (c) A licensee's or registrant's policy for detecting fraud must
13 include:

14 (1) identification and assessment of the material risks of its
15 virtual-currency business activity related to fraud;

16 (2) protection against any material risk related to fraud identified
17 by the department or the licensee or registrant; and

18 (3) periodic evaluation and revision of the anti-fraud procedure.

19 (d) A licensee's or registrant's policy for preventing money
20 laundering and financing of terrorist activity must include:

21 (1) identification and assessment of the material risks of its
22 virtual-currency business activity related to money laundering and
23 financing of terrorist activity;

24 (2) procedures, in accordance with federal law or guidance published
25 by federal agencies responsible for enforcing federal law, pertaining to
26 money laundering and financing of terrorist activity; and

27 (3) filing reports under the Bank Secrecy Act, 31 U.S.C. 5311 et
28 seq., as such act existed on the effective date of this act, or 31 C.F.R.
29 Chapter X, Financial Crimes Enforcement Network, Department of the
30 Treasury, as such rule existed on the effective date of this act, and
31 other federal or state laws pertaining to the prevention or detection of

1 money laundering or financing of terrorist activity.

2 (e) A licensee's or registrant's information-security and
3 operational-security policy must include reasonable and appropriate
4 administrative, physical, and technical safeguards to protect the
5 confidentiality, integrity, and availability of any nonpublic personal
6 information or virtual currency it receives, maintains, or transmits.

7 (f) A licensee or registrant is not required to file with the
8 department a copy of a report it makes to a federal authority unless the
9 department specifically requires filing.

10 (g) A licensee's or registrant's protection policy under subsection
11 (e) of this section for residents must include:

12 (1) any action or system of records required to comply with the
13 Uniform Regulation of Virtual-Currency Businesses Act and law of this
14 state other than the act applicable to the licensee or registrant with
15 respect to virtual-currency business activity with or on behalf of a
16 resident;

17 (2) a procedure for resolving disputes between the licensee or
18 registrant and a resident;

19 (3) a procedure for a resident to report an unauthorized, mistaken,
20 or accidental virtual-currency business activity transaction; and

21 (4) a procedure for a resident to file a complaint with the licensee
22 or registrant and for the resolution of the complaint in a fair and
23 timely manner with notice to the resident as soon as reasonably practical
24 of the resolution and the reasons for the resolution.

25 (h) After the policies and procedures required under this section
26 are created and approved by the department and the licensee or
27 registrant, the licensee or registrant shall engage a responsible
28 individual with adequate authority and experience to monitor each policy
29 and procedure, publicize it as appropriate, recommend changes as
30 desirable, and enforce it.

31 (i) A licensee or registrant may:

1 (1) request advice from the department as to compliance with this
2 section; and

3 (2) with the department's approval, outsource functions, other than
4 compliance, required under this section.

5 (j) Failure of a particular policy or procedure adopted under this
6 section to meet its goals in a particular instance is not a ground for
7 liability of the licensee or registrant if the policy or procedure was
8 created, implemented, and monitored properly. Repeated failures of a
9 policy or procedure are evidence that the policy or procedure was not
10 created or implemented properly.

11 (k) Policies and procedures adopted under this section must be
12 disclosed separately from other disclosures made available to a resident,
13 in a clear and conspicuous manner and in the medium through which the
14 resident contacted the licensee or registrant.

15 Sec. 31. (a) An applicant, before submitting its application, and a
16 registrant, before registering, shall establish and maintain in a record
17 a policy or procedure designed to ensure compliance with:

18 (1) the Uniform Regulation of Virtual-Currency Businesses Act; and

19 (2) law of this state other than the act if:

20 (A) the other law is relevant to the virtual-currency business
21 activity contemplated by the licensee or registrant or the scope of the
22 act; or

23 (B) the act could assist in the purpose of the other law because
24 violation of the other law has a remedy under the act.

25 (b) A policy or procedure under subsection (a) of this section:

26 (1) must be compatible, and not conflict, with requirements
27 applicable to a licensee or registrant under law of this state other than
28 the act and under federal law; and

29 (2) may be a policy or procedure in existence for the licensee's or
30 registrant's virtual-currency business activity with or on behalf of a
31 resident.

1 (c) After the policies and procedures required under this section
2 are created by the licensee or registrant and approved by the department,
3 the licensee or registrant shall engage a responsible individual with
4 adequate authority and experience to monitor each policy or procedure,
5 publicize it as appropriate, recommend changes as desirable, and enforce
6 it.

7 (d) A licensee or registrant may:

8 (1) request advice from the department as to compliance with this
9 section; and

10 (2) with the department's approval, outsource functions, other than
11 compliance, required under this section.

12 (e) Failure of a particular policy or procedure adopted under this
13 section to meet its goals in a particular instance is not a ground for
14 liability of the licensee or registrant if the policy or procedure was
15 created, implemented, and monitored properly. Repeated failures of a
16 policy or procedure are evidence that the policy or procedure was not
17 created or implemented properly.

18 Sec. 32. In applying and construing the Uniform Regulation of
19 Virtual-Currency Businesses Act, consideration must be given to the need
20 to promote uniformity of the law with respect to its subject matter among
21 the states that enact it.

22 Sec. 33. The Uniform Regulation of Virtual-Currency Businesses Act
23 modifies, limits, or supersedes the Electronic Signatures in Global and
24 National Commerce Act, 15 U.S.C. 7001, et seq., but does not modify,
25 limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or
26 authorize electronic delivery of any of the notices described in section
27 103(b) of that act, 15 U.S.C. 7003(b) as such section and subsections
28 existed on the effective date of this act.

29 Sec. 34. (a) A license issued under the Nebraska Money Transmitters
30 Act which is in effect immediately before the effective date of this act
31 remains in effect as a license for its duration unless revoked or

1 suspended by the licensing authority that issued it. A person licensed
2 under the Nebraska Money Transmitters Act which does not intend to engage
3 in virtual-currency business activity is not required to inform the
4 department of its intention.

5 (b) If the department denies, suspends, or revokes a license under
6 the Uniform Regulation of Virtual-Currency Businesses Act or suspends or
7 revokes a registration to conduct virtual-currency business activity with
8 or on behalf of a resident, the denial, suspension, or revocation may not
9 be used as a ground for suspension or revocation of a license granted
10 under the Nebraska Money Transmitters Act unless that act independently
11 provides a basis for action against the licensee or registrant.

12 (c) The Uniform Regulation of Virtual-Currency Businesses Act
13 applies to virtual-currency business activity with or on behalf of a
14 resident on or after the effective date of this act.

15 (d) A person is deemed to be conducting unlicensed virtual-currency
16 business activity with or on behalf of a resident in violation of the
17 Uniform Regulation of Virtual-Currency Businesses Act if the person
18 engages in virtual-currency business activity on or after the effective
19 date of this act and the person does not hold a license issued or
20 recognized under the act, is not exempt from the act, and has not applied
21 for a license or filed a registration. This subsection includes a person
22 that:

23 (1) has obtained a license under the Nebraska Money Transmitters
24 Act, whether or not that act covers virtual-currency business activity,
25 or holds a charter as a trust company from this state; and

26 (2) does not have permission to engage in virtual-currency business
27 activity with or on behalf of a resident.

28 Sec. 35. If any section in this act or any part of any section is
29 declared invalid or unconstitutional, the declaration shall not affect
30 the validity or constitutionality of the remaining portions.