

SENATE BILL NO. 333—SENATOR NEAL

MARCH 20, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to virtual currency.
(BDR 57-18)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to virtual currency; requiring a virtual currency business to provide to the Commissioner of Financial Institutions a written disclosure before engaging in virtual currency business activity with or on behalf of a resident of this State; creating the Virtual Currency Recovery Account; requiring a virtual currency business to pay to the Commissioner an annual assessment; authorizing the Commissioner to award grants to certain residents who are customers of certain virtual currency businesses who are unable to satisfy their monetary obligations to customers; requiring a virtual currency business to provide certain disclosures to a resident before engaging in virtual currency business activity with or on behalf of the resident; prohibiting a virtual currency business from engaging in certain advertisements or promotions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill, based in part on similar legislation proposed in Massachusetts and Connecticut, sets forth various requirements and restrictions concerning virtual currency business activity. (S. 690, 193rd Gen. Court (Mass. 2023); H.B. 5320, Gen. Assem., Reg. Sess. (Conn. 2022)) **Section 9** of this bill defines “virtual currency business activity” to mean, in general: (1) receiving virtual currency for transmission or transmitting virtual currency; (2) storing, holding or maintaining custody or control of virtual currency on behalf of others; (3) buying and selling virtual currency as a business; (4) performing exchange services as a business; or (5) controlling or issuing virtual currency. **Section 8** of this bill designates a person who engages in virtual currency business activity as a “virtual currency business.” **Sections 3-7** of this bill define additional words and terms for the purposes of this



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bill. **Section 10** of this bill exempts certain financial institutions from the provisions of this bill.

Section 11 of this bill requires a virtual currency business, before engaging in virtual currency business activity with or on behalf of a resident of this State, to submit to the Commissioner of Financial Institutions a written disclosure containing certain information. **Section 12** of this bill requires each virtual currency business who engages in virtual currency business activity with or on behalf of a resident to pay to the Commissioner an annual assessment in an amount equal to 5 percent of the gross revenue of the virtual currency business in the immediately preceding year that was derived from engaging in virtual currency business activities with or on behalf of residents. **Section 12** requires the money collected from the assessment to be deposited in the Virtual Currency Recovery Account, which is created by **section 13** of this bill.

Section 14 of this bill authorizes the Commissioner to award grants from the Account to eligible residents. Under **section 14**, a resident is eligible for a grant from the Account if: (1) the resident has deposited government currency with a virtual currency business or used the services of a virtual currency business to exchange government currency; (2) the virtual currency business is unable to meet any monetary obligations to any of its customers; and (3) the resident meets any other criteria for eligibility established by the Commissioner by regulation.

Section 15 of this bill requires a virtual currency business, before engaging in virtual currency business activity with or on behalf of a resident, to provide to the resident a written disclosure containing the material risks involved in the activity and certain other information. **Section 16** of this bill prohibits a virtual currency business from engaging in advertising or promotions which target any person or group of persons who, for certain specified reasons, is particularly vulnerable to financial exploitation. **Section 17** of this bill authorizes the Commissioner to adopt regulations to carry out the provisions of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 4. *“Exchange service” means:*

1. The conversion or exchange of government currency or other value into virtual currency;

2. The conversion or exchange of virtual currency into government currency or other value; or

3. The conversion or exchange of one form of virtual currency into another form of virtual currency.

Sec. 5. *“Government currency” means currency which has been issued by a government and has been designated as legal*



tender in its country of issuance through law, regulation or government decree.

Sec. 6. “Resident” means a person whose information on record with or available to a virtual currency business indicates that the person has:

1. A home address in this State;
2. A mailing address in this State; or
3. An Internet protocol address connected with a location in this State.

Sec. 7. 1. “Virtual currency” means a digital representation of value that is used as a medium of exchange or a form of digitally stored value.

2. The term includes a digital representation of value that:

- (a) Has a centralized repository or administrator;
- (b) Is decentralized and does not have a centralized repository or administrator; or
- (c) May be created or obtained by computing or manufacturing effort.

3. The term does not include a digital representation of value that is used exclusively:

(a) Within one or more online game platforms and which does not have a market or application outside of those gaming platforms and cannot be converted to or redeemed for government currency; or

(b) As part of a consumer affinity or rewards program which can be applied solely as payment for purchases with the issuer of the digital representation of value or other designated merchant but cannot be converted to or redeemed for government currency.

Sec. 8. “Virtual currency business” means a person who engages in virtual currency business activity.

Sec. 9. “Virtual currency business activity” means:

1. Receiving virtual currency for transmission or transmitting virtual currency, except where the transaction is undertaken for nonfinancial purposes and does not involve the transfer of more than a nominal amount of virtual currency;

2. Storing, holding or maintaining custody or control of virtual currency on behalf of others;

3. Buying and selling virtual currency as a business;

4. Performing exchange services as a business; or

5. Controlling or issuing virtual currency.

Sec. 10. The provisions of this chapter do not apply to a bank, trust company, bank holding company, credit union, building and loan association, savings and loan association, savings bank or mutual savings bank organized under the laws of any state or the United States.



Sec. 11. *1. Before engaging in any virtual currency business activity with or on behalf of any resident, a virtual currency business shall submit to the Commissioner, on a form prescribed by the Commissioner, a written disclosure that contains, without limitation:*

(a) The name and address of the virtual currency business;

(b) Any affiliate or subsidiary of the virtual currency business; and

(c) Any other virtual currency business in which the virtual currency business holds an ownership interest.

2. A virtual currency business that has submitted a disclosure pursuant to subsection 1 shall thereafter promptly notify the Commissioner of every material change in the information provided in the disclosure.

Sec. 12. *1. On or before a date prescribed by the Commissioner each year, each virtual currency business that has engaged in virtual currency business activity with or on behalf of a resident in the immediately preceding year shall submit to the Commissioner an assessment in an amount equal to 5 percent of the gross revenue of the virtual currency business in the immediately preceding year that was derived from engaging in virtual currency business activities with or on behalf of residents.*

2. The money collected by the Commissioner from the assessment imposed pursuant to subsection 1 must be deposited in the Virtual Currency Recovery Account created by section 13 of this act.

Sec. 13. *1. The Virtual Currency Recovery Account is hereby created in the State General Fund.*

2. The Commissioner shall administer the Account. The money in the Account must be expended to award grants to eligible residents in accordance with section 14 of this act.

3. The Commissioner may apply for and accept any gift, donation, bequest, grant, transfer or other source of money for deposit in the Account.

4. The interest and income earned on the money in the Account, after deducting applicable charges, must be credited to the Account.

5. The money in the Account must remain in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 14. *1. To the extent that money is available in the Virtual Currency Recovery Account created by section 13 of this act, the Commissioner may award grants from the Account to eligible residents who submit an application to the Commissioner in the form and manner prescribed by the Commissioner.*



2. Except as otherwise provided in subsection 3, a resident is eligible for a grant from the Account if:

(a) The resident has:

(1) Deposited government currency with a virtual currency business for the purchase of virtual currency; or

(2) Used the services of a virtual currency business to exchange government currency for virtual currency;

(b) At the time the resident submits an application to the Commissioner for a grant from the Account, the virtual currency business that conducted the virtual currency business activity described in paragraph (a) with the resident is unable to meet any monetary obligations to any of the customers of the virtual currency business; and

(c) The resident meets any other criteria for eligibility established by the Commissioner by regulation.

3. The amount of money from the Account that may be awarded to a resident based upon any number of applications submitted by the resident involving a single virtual currency business must not exceed \$10,000.

4. The Commissioner shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:

(a) The procedure by which a person may apply for a grant from the Account;

(b) Any additional criteria that a person must meet to be eligible for a grant from the Account; and

(c) Procedures to distribute the money in the Account in a fair and equitable manner.

Sec. 15. A virtual currency business shall, before engaging in virtual currency business activity with or on behalf of a resident, provide to the resident a written disclosure, which includes, without limitation, all material risks that, to the best of the virtual currency business's knowledge, the virtual currency business activity may pose and the following statements:

1. That virtual currency is not legal tender and is not backed by the United States government;

2. That the virtual currency held by the virtual currency business on behalf of the resident is not insured by the Federal Deposit Insurance Corporation;

3. That transactions in virtual currency held by the virtual currency business on behalf of the resident may be irreversible and losses due to fraudulent or accidental transactions may not be recoverable;

4. That laws determining the rights and obligations of virtual currency users are not fully developed and a court may find that



1 *the elements of the transaction, including, without limitation, the*
2 *timing, amount, identity or location of the parties may not be the*
3 *same as if the transaction had occurred with government*
4 *currency;*

5 *5. That the value of the virtual currency held by the virtual*
6 *currency business on behalf of the resident may change more*
7 *quickly and unexpectedly than that of government currency and*
8 *may in fact become zero; and*

9 *6. That technological difficulties experienced by the virtual*
10 *currency business may prevent the resident from accessing the*
11 *virtual currency held by the virtual currency business on behalf of*
12 *the resident.*

13 **Sec. 16.** *A virtual currency business shall not engage in*
14 *advertising or promotions which target any person or group of*
15 *persons who, by reason of age, health, economic status, infirmity,*
16 *impaired understanding or disability, is particularly vulnerable to*
17 *financial exploitation.*

18 **Sec. 17.** *The Commissioner may adopt such regulations as*
19 *are necessary to carry out the provisions of this chapter.*

20 **Sec. 18.** 1. This section becomes effective upon passage and
21 approval.

22 2. Sections 1 to 17, inclusive, of this act become effective:

23 (a) Upon passage and approval for the purpose of adopting any
24 regulations and performing any other preparatory administrative
25 tasks that are necessary to carry out the provisions of this act; and

26 (b) On January 1, 2024 for all other purposes.

