MEMORANDUM

DATE: November 1, 2019

TO: Honorable Christopher T. Sununu, Governor
    Honorable Stephen J. Shurtleff, Speaker of the House
    Honorable Donna Soucy, President of the Senate
    Honorable Paul C. Smith, House Clerk
    Honorable Tammy L. Wright, Senate Clerk
    Michael York, State Librarian

FROM: Representative Susan Almy, Chair

Committee to Study Cryptocurrency Regulation

Pursuant to RSA 399-G:25, enclosed please find the Annual Report on the Commission to Study Cryptocurrency Regulation.

If you have any questions or comments regarding this report, please do not hesitate to contact me.

I would like to thank those members of the commission who were instrumental in this study. I would also like to acknowledge all those who testified before the commission and assisted the commission in our study.

Enclosures .

cc: Members of the Commission
ANNUAL REPORT Commission to Study Cryptocurrency HB 356, Chapter 205, Laws of 2016

November 2, 2019


Commission Charge: This commission was established effective June 6, 2016. It is charged with studying whether regulation of the cryptocurrency industry is necessary in New Hampshire. It is required to report annually with its findings and any recommendations for proposed legislation. The commission will be repealed effective November 1, 2021.

Meeting and Discussion: Legislation was sponsored by a member of the committee and adopted in 2017 exempting persons using virtual currency from registering as money transmitters. The Committee met again on September 26, 2019 and elected Rep. Almy to serve as Chair, who appointed industry representative Jeremy Kauffman to act as clerk. The committee had agreed to meet yearly until its planned repeal to consider new information about the industry and legislation needs. Reps. Dennis Acton and Mark Proulx as well as new Banking Association lobbyist Ryan Hale participated.

Maryam Torben, Banking Department, noted that money transmitters who conduct business in traditional fiat currency, for example U.S. dollars, as well as cryptocurrency are still required to be licensed with the New Hampshire Banking Department. If individuals sell each other cryptocurrency for dollars, they do not need to license, but if a business engages in this, it must license. If businesses neither buy nor sell in fiat currency, they are exempt. Internal cryptocurrency to cryptocurrency transactions (or cryptocurrency to other items of value) are subject to the provisions of RSA 358-A, the Consumer Protection Act. Rep Hunt explained that bringing complaints of harm caused by a non-fiat cryptocurrency transmitter would require a lawsuit under the private right of action, which if successful in court, is eligible for triple damages as a remedy.

Jeremy Kauffman described the major legal difficulties faced by the industry at the federal level due to how they are defined for regulatory purposes, including banking. New Hampshire law has not been a problem. Ms. Torben said they have only seen information in New Hampshire about a company set up like a bank, which was paying interest on deposits of cryptocurrency. Under our law this makes them a bank subject to bank regulation. But the company was based in another state and not under our jurisdiction.

Recommendation: After considering the testimony presented, commission members agreed that they would continue to monitor the New Hampshire cryptocurrency industry and would not recommend any changes to the current law for introduction in the 2020 legislative session.

Respectfully submitted on behalf of the commission, Rep. Susan Almy, Chair

Attachment: Minutes
Committee to Study Cryptocurrency Regulation

Minutes 9/26/19

- Meeting started 10:05am
- Attending: Representative Susan Almy, Representative John Hunt, Maryam Torben from banking department, Representative Greg Indruk, Jeremy Kauffman as industry representative
- Representative Almy elected chair with unanimous consent (5-0)
- Kauffman appointed as clerk
- Representative Hunt recounted history of establishment of committee and HB436
- Torben explained how banking department has been handling blockchain cases since passage of HB436
  - Crypto-to-crypto exchanges are exempted, but informed on how NH attorney general handles fraud in this area
  - All other entities handled through typical process
  - Torben is unaware of any enforcement from attorney general related to cryptocurrency.
  - Torben shared details about how SEC and FINRA handle related issues federally
- Group discussion about blockchain technology and how it works
- Jeremy Kauffman shared some of the problems the industry is facing in terms of conflicting rules, regulatory uncertainty, and high compliance costs.
- Representative Almy expressed concerns that having individuals go directly to the attorney general is an unusual process.
  - Representative Hunt thought this may be a more powerful enforcement tool, since it allows for treble damages and private action
- Meeting adjourned at 11:20am

Jeremy Kauffman, Clerk