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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Commerce and Consumer Protection and
Energy, Economic Development, and Tourism
Tuesday, March 22, 2022
10:15 a.m.**

**On the following measure:
S.R. 25, REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS'S DIVISION OF FINANCIAL INSTITUTIONS AND THE HAWAII
TECHNOLOGY DEVELOPMENT CORPORATION TO EXTEND THE DIGITAL
CURRENCY INNOVATION LAB PILOT PROJECT.**

Chairs Baker and Wakai and Members of the Committee:

My name is Iris Ikeda, and I am the Commissioner of the Department of Commerce and Consumer Affairs' (Department), Division of Financial Institutions (DFI). The Department appreciates the intent of this resolution and offers comments.

The purpose of this resolution is to request the Department and the Hawaii Technology Development Corporation (HTDC) to extend the Digital Currency Innovation Pilot Project.

The pilot program was initiated by the Department and HTDC to study the type of transactions, study the business models of the companies, and determine whether consumer protection was needed. The pilot program had a two year implementation date which would provide sufficient time for the Department and HTDC to determine what steps were needed to move forward. All participating companies and consumers were informed that the pilot program will end June 30, 2022 for transactions and all

customers must close or divest their holdings by December 31, 2022. The data gathered through the DCIL program confirmed that digital currency transactions are not optimally regulated through existing money transmitter laws and that a new regulatory framework is appropriate. Because of the temporary nature of the pilot program, the Department believes not all digital currency companies opted to participate in the pilot program.

The Department prefers the regulatory program found in either H.B. 2108, H.D. 1 or S.B. 3025, S.D.2. This is because under the pilot program, Department has little regulation or supervision over the participating companies as the Department did not require a license to participate in the program. Instead, all participating companies agreed to follow existing laws and provide reports and feedback throughout the pilot program period. Should the pilot program continue, the Department recommends that it have regulatory powers to enforce state and federal laws on the participating companies. Without these enforcement powers, the Department and the State has little authority to maintain the level of consumer protection. The Department would also need additional resources to maintain such a full regulatory program.

Thank you for the opportunity to testify on this resolution.

March 22, 2022

10:15 a.m.

Conference Room 229 and Videoconference

To: Senate Committee on Commerce and Consumer Protection

Sen. Rosalyn H. Baker, Chair

Sen. Stanley Chang, Vice Chair

Senate Committee on Energy, Economic Development, and Tourism

Sen. Glenn Wakai, Chair

Sen. Bennette E. Misalucha, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: SCR30/SR25 — REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' DIVISION OF FINANCIAL INSTITUTIONS AND THE HAWAII TECHNOLOGY DEVELOPMENT CORPORATION TO EXTEND THE DIGITAL CURRENCY INNOVATION LAB PILOT PROJECT

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on SCR30 and SR25, which urges the Department of Commerce and Consumer Affairs to extend the digital currency innovation lab pilot project for two more years.

In 2019, Gov. David Ige authorized a temporary “Digital Currency Innovation Lab,” a regulatory “sandbox” that allowed certain cryptocurrency companies to do business in Hawaii without being subject to the money-transmitter law’s double-reserve requirement. Since the lab’s inception, 61,000 Hawaii customers have been able to access digital currency and complete more than \$611 million in transactions.

Unfortunately, the sandbox experiment will end at the close of 2022. Without further action, cryptocurrency will once again become inaccessible for Hawaii residents. Moreover, the state will lose access to the economic benefits of this rapidly expanding industry.

In 2017, Hawaii lawmakers in both chambers approved an exemption for cryptocurrency from the state's Money Transmitters Act,¹ but the exemption was deleted in conference committee before the bill was enacted. Iris Ikeda, commissioner of the state Division of Financial Institutions, stated at the time that lawmakers should first study the issue via a "Decentralized Virtual Currency Working Group."

"DFI believes that the most prudent approach would be to allow the DVC Working Group the opportunity to perform its review and to provide the Legislature with findings and recommendations prior to the creation of an exemption for decentralized virtual currency," she said.²

Now that the issue has been studied via the Digital Currency Innovation Lab, lawmakers can feel confident about following the example of 20 other states by exempting cryptocurrency from the state's Money Transmitters Act.³ With this one change, Hawaii would go from one of the most burdensome states for cryptocurrency to one of the best.

After Wyoming exempted cryptocurrency companies from its double-reserve requirement in 2018, it was dubbed one of the country's "most crypto-friendly" jurisdictions.⁴

Cryptocurrency is a developing industry that moves as quickly as the technology involved. The delay caused by the Legislature's inaction may cause Hawaii to fall further behind.

The best approach would be to move forward with legislation that would simply exempt cryptocurrency companies from the state Money Transmitters Act.

However, since that appears to be no longer possible during the current legislative session, the second-best approach would be to extend the life of the Digital Currency Innovation Lab, perhaps even encouraging the Department of Commerce to broaden the scope of the lab and

¹ [SB949](#) of 2017.

² Iris Ikeda, Division of Financial Institutions commissioner, "[Testimony on SB949, SD1 HD1](#)," Hawaii State Legislature, March 31, 2017. See also, "[Conference Committee Rep. No. 78](#)," Hawaii State Legislature, April 27, 2017.

³ States that do not require a money-transmitter license for virtual currency transactions include Arizona, Arkansas, California, Colorado, Idaho, Illinois, Kansas, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, North Dakota, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin. See "[Cryptocurrency laws by state](#)," Shipkevich Attorneys at Law, 2020.

⁴ Chris Matthews, "[How Wyoming became the promised land for bitcoin investors](#)," MarketWatch, April 24, 2021; "[What do Wyoming's 13 new blockchain laws mean?](#)" Forbes.com, March 4, 2019; [HB0019](#) of 2018 Wyoming Legislature; and Erik Kuebler, "[Wyoming House unanimously approves two pro-blockchain bills](#)," Bitcoin Magazine, Feb. 20, 2018.

allow greater participation. This would allow the Legislature to further observe the effect of the Lab in action while settling on more ideal legislation.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii