

Honolulu, Hawaii

FEB 10 2022

RE: S.B. No. 3025
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committees on Commerce and Consumer Protection and Energy, Economic Development, and Tourism, to which was referred S.B. No. 3025 entitled:

"A BILL FOR AN ACT RELATING TO DIGITAL CURRENCY LICENSING PROGRAM,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Create a licensing scheme for digital currency companies to be regulated by the Department of Commerce and Consumer Affairs' Division of Financial Institutions;
- (2) Continue the study of use cases by the Hawaii Technology Development Corporation; and
- (3) Appropriate funds.

Your Committees received testimony in support of this measure from the Hawai'i Technology Development Corporation and five individuals. Your Committees received testimony in opposition to this measure from the Libertarian Party of Hawaii and two individuals. Your Committees received comments on this measure from the Department of Commerce and Consumer Affairs and Grassroot Institute of Hawaii.



Your Committees find that digital currency has grown in popularity, however, there is little regulation of the industry. According to research conducted by the Division of Financial Institutions and the Hawaii Technology Development Corporation in the Digital Currency Innovation Lab, it has been determined that the current regulatory scheme of the money transmitter law does not comport with the activities conducted by digital currency. This measure would create a new licensing scheme to provide greater consumer protections.

Your Committees note that S.B. No. 3076 (Regular Session of 2022), is a substantially similar measure with the similar purpose of regulating digital currency that includes preferred language that provides a phased approach to allow for the orderly transition from the Digital Current Innovation Law to the new licensing scheme.

Accordingly, your Committees have amended by this measure by:

- (1) Deleting its contents and inserting the contents of S.B. No. 3076, a substantially similar measure, which:
 - (A) Establishes a program for the licensure, regulation, and oversight of digital currency companies;
 - (B) Implements a phased application of the licensing program to the companies authorized to participate in the Digital Currency Innovation Lab; and
 - (C) Appropriates funds out of the Compliance Resolution Fund to implement the licensing program;
- (2) Clarifying the definition of "tangible net worth" to mean total assets excluding intangible assets, less total liabilities, in accordance with United States Generally Accepted Accounting Principles;
- (3) Exempting from the licensing program, non-custodial digital currency business activity by a person using a digital currency acknowledged as legal tender by the United States, or government recognized by the United



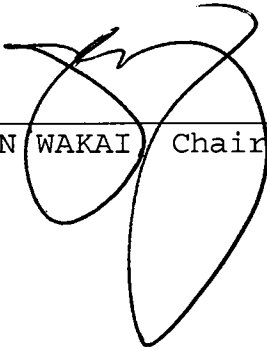
States, or that has been determined to not be a security by a United States regulatory agency;

- (4) Clarifying that each licensee shall be prohibited from selling, transferring, assigning, lending, hypothecating, pledging, or otherwise using or encumbering assets, including digital currency, stored, held, or maintained by, or under the custody or control of, the licensee on behalf of another person except for the sale, transfer, or assignment of the assets at the direction of that other person, unless clearly presented and stated to the client that doing so is the intent of the product;
- (5) Clarifying that a licensee engaged in digital currency business activities shall maintain at all times a tangible net worth of not less than \$500,000, or in an amount determined by the Commissioner of Financial Institutions necessary to ensure safe and sound operation;
- (6) Inserting an effective date of July 31, 2050, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Energy, Economic Development, and Tourism that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3025, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3025, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and Energy,
Economic Development, and
Tourism,



GLENN WAKAI, Chair

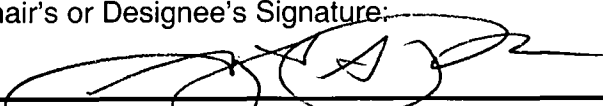


ROSALYN H. BAKER, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 3025	CPN/EET, WAM	02-08-2022		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
CHANG, Stanley (VC)	/			
DECOITE, Lynn	/			
NISHIHARA, Clarence K.	/			
RIVIERE, Gil	/			
SAN BUENAVENTURA, Joy A.	/			
FEVELLA, Kurt	/			
TOTAL	7			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution: Original Yellow Pink Goldenrod				
File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

