A BILL FOR AN ACT

CONCERNING THE EXEMPTION OF VIRTUAL CURRENCY FROM regulation under the "MONEY TRANSMITTERS ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill exempts the transmission of virtual currency from regulation under the Colorado "Money Transmitters Act".

Be it enacted by the General Assembly of the State of Colorado:
SECTION 1. In Colorado Revised Statutes, 11-51-201, amend the introductory portion and (17); and add (11.8) as follows:

11-51-201. Definitions. As used in this article 51, unless the context otherwise requires:

(11.8) "OPEN BLOCKCHAIN TOKEN" MEANS A DIGITAL UNIT THAT IS:

(a) CREATED:

(I) IN RESPONSE TO THE VERIFICATION OR COLLECTION OF A SPECIFIED NUMBER OF TRANSACTIONS RELATING TO A DIGITAL LEDGER OR DATABASE:

(II) BY DEPLOYING COMPUTER CODE TO A BLOCKCHAIN NETWORK OR DISTRIBUTED DIGITAL LEDGER THAT ALLOWS FOR THE CREATION OF DIGITAL TOKENS OR OTHER UNITS; OR

(III) USING ANY COMBINATION OF THE METHODS SPECIFIED IN SUBSECTIONS (11.8)(a)(I) AND (11.8)(a)(II) OF THIS SECTION;

(b) RECORDED IN A DIGITAL LEDGER OR DATABASE THAT IS CONSENSUS-BASED, DECENTRALIZED, AND MATHEMATICALLY VERIFIED IN NATURE, ESPECIALLY RELATING TO THE SUPPLY OF DIGITAL UNITS AND THEIR DISTRIBUTION; AND

(c) CAPABLE OF BEING TRADED OR TRANSFERRED BETWEEN PERSONS WITHOUT AN INTERMEDIARY OR CUSTODIAN OF VALUE.

(17) (a) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate of subscription; transferable share; investment contract; viatical settlement investment; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil,
gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing ITEMS LISTED IN THIS SUBSECTION (17)(a).

(b) "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a sum of money either in a lump sum or periodically for life or some other specified period.

(c) For purposes of this article AS USED IN SUBSECTION (17)(a) OF THIS SECTION, an "investment contract":

(I) Need not involve more than one investor nor be limited to those circumstances wherein there are multiple investors who are joint participants in the same enterprise;

(II) INCLUDES AN INVESTMENT IN A COMMON ENTERPRISE WITH THE EXPECTATION OF PROFITS TO BE DERIVED PRIMARILY FROM THE EFFORTS OF A PERSON OTHER THAN THE INVESTOR. "COMMON ENTERPRISE" MEANS AN ENTERPRISE IN WHICH THE FORTUNES OF THE INVESTOR ARE INTERWOVEN WITH THOSE OF EITHER THE PERSON OFFERING THE INVESTMENT, A THIRD PARTY, OR OTHER INVESTORS.

(III) DOES NOT INCLUDE AN OPEN BLOCKCHAIN TOKEN THAT IS EXCHANGEABLE WITHIN SIXTY CALENDAR DAYS AFTER ITS SALE AND, AT THE TIME OF SALE, IS EXCHANGEABLE FOR, OR PROVIDED FOR THE RECEIPT OF, GOODS, SERVICES, OR CONTENT, INCLUDING RIGHTS OF ACCESS TO GOODS, SERVICES, OR CONTENT.

SECTION 2. In Colorado Revised Statutes, 11-110-103, add (18)
as follows:

11-110-103. Definitions. As used in this article 110, unless the context otherwise requires:

(18) "VIRTUAL CURRENCY" MEANS ANY TYPE OF DIGITAL REPRESENTATION OF VALUE THAT:

(a) IS USED AS A MEDIUM OF EXCHANGE, UNIT OF ACCOUNT, OR STORE OF VALUE; AND

(b) IS NOT RECOGNIZED AS LEGAL TENDER BY THE UNITED STATES GOVERNMENT.

SECTION 3. In Colorado Revised Statutes, amend 11-110-106 as follows:

11-110-106. Exemptions. (1) Nothing in this article 110 shall apply to:

(a) Departments or agencies of the United States of America, or to any state or municipal government, or to corporations organized under the general banking, savings and loan, or credit union laws of this state or of the United States, or to the receipt of money by an incorporated telegraph or cable company at any office or agency thereof for immediate transmission by telegraph or cable;

(b) THE TRANSMISSION OF VIRTUAL CURRENCY.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect
unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.