REGULAR CALENDAR

October 24, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Commerce and Consumer Affairs to which was referred HB 1502-FN,

AN ACT relative to digital assets and digital securities.

Having considered the same, report the same: NOT RECOMMENDED FOR FUTURE LEGISLATION.

Rep. Keith Ammon

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Commerce and Consumer Affairs**
Bill Number:	**HB 1502-FN**
Title:	**relative to digital assets and digital securities.**
Date:	**October 24, 2022**
Consent Calendar:	**REGULAR**
Recommendation:	**NOT RECOMMENDED FOR FUTURE LEGISLATION**

STATEMENT OF INTENT

This was an early bill that dealt with cryptocurrencies and digital assets. The committee decided to amend this bill into a non-early and related bill, HB 1503 (Chap. 281, Laws of 2022), to allow for more time for hearings and the development of this complex subject matter. Ultimately, HB 1503 became the vehicle for adopting Article 12 of the Uniform Commercial Code. Article 12 is the Uniform Law Commission's (ULC's) new model legislation on digital assets and "controllable electronic records." New legislation will be filed for 2023 to update NH's statutes to the most recent version of UCC Article 12, which has been made available by the ULC after the passage of HB 1503. Therefore, the committee does not recommend this bill for further legislation.

Vote 17-0.

Rep. Keith Ammon
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Commerce and Consumer Affairs

HB 1502-FN, relative to digital assets and digital securities.**NOT RECOMMENDED FOR FUTURE LEGISLATION .**

Rep. Keith Ammon for Commerce and Consumer Affairs. This was an early bill that dealt with cryptocurrencies and digital assets. The committee decided to amend this bill into a non-early and related bill, HB 1503 (Chap. 281, Laws of 2022), to allow for more time for hearings and the development of this complex subject matter. Ultimately, HB 1503 became the vehicle for adopting Article 12 of the Uniform Commercial Code. Article 12 is the Uniform Law Commission's (ULC's) new model legislation on digital assets and "controllable electronic records." New legislation will be filed for 2023 to update NH's statutes to the most recent version of UCC Article 12, which has been made available by the ULC after the passage of HB 1503. Therefore, the committee does not recommend this bill for further legislation. **Vote 17-0.**

Original: House Clerk
Cc: Committee Bill File

Heather Goley

From: JOHN HUNT <jbhunt@prodigy.net>
Sent: Monday, October 24, 2022 10:23 AM
To: Heather Goley
Subject: Fwd: Ammon Blurbs

Caution! This message was sent from outside your organization.

Begin forwarded message:

From: Keith Ammon <keith.ammon@protonmail.com>
Subject: Ammon Blurbs
Date: October 19, 2022 at 8:45:00 PM EDT
To: 'John Hunt' <jbhuntnh@gmail.com>

Sorry I didn't make it to lunch today. Here are my blurbs.

HB1502 was an early bill that dealt with cryptocurrencies and digital assets. The committee decided to amend HB1502 into a non-early and related bill, HB1503, to allow for more time for hearings and the development of this complex subject matter. Ultimately, HB1503 became the vehicle for adopting Article 12 of the Uniform Commercial Code. Article 12 is the Uniform Law Commission's new model legislation on digital assets and "controllable electronic records." New legislation will be filed for 2023 to update NH's statutes to the most recent version of UCC Article 12, which has been made available by the ULC after the passage of HB1503. Therefore, the committee does not recommend HB1502 for further legislation.

HB1589 would have prohibited the sale of any product containing "intentionally-added" PFAS. After hearing testimony, the committee determined this well-intentioned bill would have unintended consequences. Maine has adopted strict legislation banning PFAS, but whether that state can successfully implement and enforce a ban remains to be seen. The bill may also ban useful products unintentionally, such as products used in the sustainable energy industry. **[CHECK THIS SENTENCE]** NH's Department of Environmental Services is currently conducting two separate studies on this issue, and the results are not yet available. Therefore, the committee does not recommend HB1589 for further legislation.

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1502-FN

BILL TITLE: relative to digital assets and digital securities.

DATE: October 19, 2022

LOB ROOM: 302 - 304

MOTION:

Interim Study (2nd yr) Not Recommended for Future Legislation

Moved by Rep. Ammon Seconded by Rep. Hunt Vote: 17-0

Respectfully submitted,

Rep Keith Ammon, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1502-FN

BILL TITLE:

DATE: 10/19/22

LOB ROOM: 302 - 304

MOTION: ☐ Recommended for Future Legislation

☒ Not Recommended for Future Legislation

Moved by Rep. Ammon Seconded by Rep. Hoyt Vote: 12-0

Respectfully submitted,

Rep. [signature]
Committee Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

10/17/2022 12:32:27 PM
Roll Call Committee Registers Report

2022 SESSION

Commerce and Consumer Affairs

Bill #: HB1502 Motion: OTP Amend AM #: _____ Exec Session Date: _____

Members	YEAS	Nays	NV
Hunt, John B. Chairman	1		
Potucek, John M. Vice Chairman	2		
~~Osborne, Jason M.~~	3		
Ammon, Keith M. Clerk	4		
Abramson, Max	5		
Ham, Bonnie D.	6		
~~Depalma IV, Joseph~~	7		
~~Greeson, Jeffrey~~	8		
Johnson, Dawn M.	9		
Terry, Paul A.	10		
Bartlett, Christy D.	11		
~~Abel, Richard M.~~	12		
Herbert, Christopher J.	13		
Van Houten, Constance	14		
~~Fargo, Kristina M.~~	15		
Weston, Joyce	16		
Beaulieu, Jane E.	17		
Burroughs, Anita D.			
McAleer, Chris R.			
TOTAL VOTE:	17	0	

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2022 SESSION

10/17/2022 12:32:27 PM
Roll Call Committee Registers Report

Bill #: _____ **Motion:** _____ **AM #:** _____ **Exec Session Date:** _____

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 1502-FN

BILL TITLE: relative to digital assets and digital securities.

DATE: 10/12/22

Subcommittee Members: Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

Comments and Recommendations:

_____

_____

_____

_____

_____

MOTION: ☐ Recommended for Future Legislation

☐ Not Recommended for Future Legislation

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

Respectfully submitted,

Rep. _____
Subcommittee Chairman/Clerk

CONSENT CALENDAR

February 8, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Commerce and Consumer Affairs to which was referred HB 1502-FN,

AN ACT relative to digital assets and digital securities.

Having considered the same, report the same with the recommendation that the bill be REFERRED FOR INTERIM STUDY.

Rep. Keith Ammon

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Commerce and Consumer Affairs**
Bill Number:	**HB 1502-FN**
Title:	**relative to digital assets and digital securities.**
Date:	**February 8, 2022**
Consent Calendar:	**CONSENT**
Recommendation:	**REFER FOR INTERIM STUDY**

STATEMENT OF INTENT

This bill specifies that digital assets - such as Bitcoin, other cryptocurrencies, and tokens - are property within the Uniform Commercial Code. The bill authorizes security interests in digital assets, allows banks to provide custodial services for digital asset property and provides procedures for the provision of custodial services. During the hearing process, it was determined that the Uniform Law Commission has made serious progress on developing new UCC statutes for digital assets. There is another bill working through the legislative process that would be a better vehicle for New Hampshire to adopt these updates to our UCC statutes. Studying this issue later this term could lead to additional recommendations for digital asset legislation for the 2023-24 legislative term.

Vote 19-0.

Rep. Keith Ammon
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Commerce and Consumer Affairs

HB 1502-FN, relative to digital assets and digital securities. **REFER FOR INTERIM STUDY.** Rep. Keith Ammon for Commerce and Consumer Affairs. This bill specifies that digital assets - such as Bitcoin, other cryptocurrencies, and tokens - are property within the Uniform Commercial Code. The bill authorizes security interests in digital assets, allows banks to provide custodial services for digital asset property and provides procedures for the provision of custodial services. During the hearing process, it was determined that the Uniform Law Commission has made serious progress on developing new UCC statutes for digital assets. There is another bill working through the legislative process that would be a better vehicle for New Hampshire to adopt these updates to our UCC statutes. Studying this issue later this term could lead to additional recommendations for digital asset legislation for the 2023-24 legislative term.

Vote 19-0.

Original: House Clerk

Cc: Committee Bill File

Carrie Morris

From: JOHN HUNT <jbhunt@prodigy.net>
Sent: Tuesday, February 8, 2022 9:37 PM
To: Kristin Grant; Carrie Morris
Subject: Fwd: Blurbs

Approve,
John

Begin forwarded message:

From: Keith Ammon <keith.ammon@protonmail.com>
Subject: Re: Blurbs
Date: February 8, 2022 at 7:01:12 PM EST
To: JOHN HUNT <jbhunt@prodigy.net>
Reply-To: Keith Ammon <keith.ammon@protonmail.com>

HB1502
Majority Recommendation: Interim Study
This bill specifies that digital assets - such as Bitcoin, other cryptocurrencies, and tokens - are property within the Uniform Commercial Code. The bill authorizes security interests in digital assets, allows banks to provide custodial services for digital asset property and provides procedures for the provision of custodial services. During the hearing process, it was determined that the Uniform Law Commission has made serious progress on developing new UCC statutes for digital assets. There is another bill working through the legislative process that would be a better vehicle for the state of New Hampshire to adopt these updates to our UCC statutes. The Commerce committee unanimously voted to recommend interim study for this bill. Studying this issue later this term could lead to additional recommendations for digital asset legislation for the 2023-24 legislative term.

HB1504
Majority Recommendation: ITL
This bill would establish a special class of depository institutions called "Special Purpose Depository Institutions" or SPDI (pronounced, "speedy"). The bill would create regulations pertaining to SPDIs and amend existing law to allow for the special class in the regulatory scheme of banking within the state. This bill was modeled off of legislation that was recently passed into law in Wyoming. A SPDI is a form of state-chartered bank that would offer a range of banking services to customers and is designed to bridge the chasm between cryptocurrency, such as Bitcoin, and government-issued, fiat currency. The bill would create requirements for a SPDI to take deposits of digital assets and provide custody and fiduciary services. One primary requirement is that a SPDI keep 100% of assets received in reserve. This would prevent something called "re-hypothecation," a practice whereby banks and brokers use, for their own purposes, assets that have been posted as collateral by their clients. The committee determined that significant changes would need to be made to the bill if we are to fit this new type of charter into New Hampshire's existing banking statutes. Adding a SPDI charter to our statutes would also require a new division to be created within the Banking Department for enforcement and that is not feasible at this time with the current level of department staff. For these reasons, the Commerce Committee unanimously recommends that the House not move forward with this legislation at this time.

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1502-FN

BILL TITLE: relative to digital assets and digital securities.

DATE: February 2, 2022

LOB ROOM: 302-304

MOTIONS: **REFER FOR INTERIM STUDY**

Moved by Rep. Ammon Seconded by Rep. Potucek Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on Bill # HB1502

BILL TITLE: ...

DATE: 4/22

LOB ROOM: 302-04

MOTION: (Please check one box)

☐ OTP ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☒ Interim Study (2nd year)

Moved by Rep. Ammon Seconded by Rep. Potucek Vote: 19-0

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: X **YES** ____ **NO**

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: _____

Rep Keith Ammon, Clerk

OFFICE OF THE HOUSE CLERK

1/10/2022 8:55:58 AM
Roll Call Committee Registers Report

2022 SESSION

Commerce and Consumer Affairs

Bill #: 1502 **Motion:** IS **AM #:** _____ **Exec Session Date:** 2/2/22

Members	YEAS	Nays	NV
Hunt, John B. Chairman	19		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
~~Abramson, Max~~ Berry	4		
Ham, Bonnie D.	5		
Depalma IV, Joseph	6		
Greeson, Jeffrey	7		
Johnson, Dawn M.	8		
Terry, Paul A.	9		
Bartlett, Christy D.	10	Z	
Abel, Richard M.	11		
Herbert, Christopher J.	12		
~~Van Houten, Constance~~ Butzy	13		
~~Fargo, Kristina M.~~ Leftanne	14		
Weston, Joyce	15		
Beaulieu, Jane E.	16		
Burroughs, Anita D.	17		
McAleer, Chris R.	18		
TOTAL VOTE:	19	0	

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1502-FN

BILL TITLE: **relative to digital assets and digital securities.**

DATE: **May 9, 2022**

LOB ROOM: **302-304** **Time Public Hearing Called to Order:** **1:15 p.m.**

Time Adjourned: **2:25 p.m.**

Committee Members: Reps. Hunt, Potucek, Ammon, Greeson, Johnson, Terry, Bartlett, Abel, Weston, Beaulieu and McAleer

Bill Sponsors:

Rep. Ammon	**Rep. Alexander Jr.**	**Rep. Osborne**
Rep. Warden	**Rep. Edwards**	**Rep. Berezhny**
Rep. Baxter	**Rep. White**	**Sen. Avard**

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Ammon - Introduced the bill

- In 2017, a law was signed by the Governor in NH
- 33 States and Puerto Rico had pending legislation in 2021
- A ledger is kept virtually to show how much you own, you have property rights and it can be used for artwork, real estate, whether virtual, metaverse, or real world
- It is innovation similar to the Internet
- Some states are trying to get Bit coin innovators to come to them
- El Salvador is using bit coin as their state treasury
- HB1502 specifically deals with the banking industry
- Crypto currency is hard for people to get their heads around
- The bill deals with the custody of a digital asset.

Question - Rep McAleer - Who wrote these bills? Did you write these yourself or those sort of cookie cutters that have been presented at other states?
Answer - Borrowed from Wyoming with the blessing of a prime sponsor. His name is Tyler Lindholm.They had a big team in Wyoming working around this and it was adapted from that Representative.

Question - Rep Abel - What is the status currently of digital assets in NH, absent this law and how would that change if this law was enacted?
Answer - What we passed in 2017 was sort of laissez-faire, hands off, only consumer protection applied. Some companies don't know how to handle our state because other states have regulations on the books. This market is kind of small and we are an after thought, this would give some clarity around financial institutions. We have really tight solid trust laws where we are king of the forerunner. There is a company called Coin base and they went public. They had their IPO on the stock market last year. There is a company called BlockFi that is different. You can get a credit card and earn crypto like cash back. Wyoming is flush with cash because they have annual filing every year from lots of these companies that are registering. They are second to Delaware for corporate filing income and a lot has to do with this type of legislation.

Question - Rep McAleer - My understanding is that Bit coin is not considered a security, what we consider a stock or a bond. I'm looking at 21 through 29 and is says digital securities are intangible personal property and should be considered securities. Then it goes on to say is defined in RSA-382.

But it is not security per se, that would be subject to rules of the exchange commission, Is that correct?
Answer - It is basically a huge spreadsheet of who owns what. That is what Bit coin is now. But there are layers on top. There is something called smart contracts. So There is a smart contract platform and you can create all kinds of digital tokens. There is a test deciding whether something is security or not. You can create on a smart contract platform something that looks more like a security.
Question - Fidelity had a digital currency ETF that would be considered a security, right?
Answer - An ETF is registered with the SEC.

Question - Rep Hunt - So this one is the UCC one. If this is going to be our own UCC form, then it may come from them first, is this the cart before the horse? Usually we wait until they have come out with their UCC. Wouldn't it be better for us to wait until they actually come out w2ith their UCC rather than having to pass something and then have to repeal it and replace it with the new UCC language?
Answer - There are philosophical things around relying on some third party to write our state laws right? So we wouldn't want to seed our sovereignty. There is a reason why we have security laws in the state statures and it is the purview of the legislature to modify it. The downside of waiting is that once it's uniform or once the federal government come out with
Rep Hunt - It is not federal government;
Rep Ammon - I know it's not.
Rep Hunt - It was designed so that laws wouldn't be federal laws that each state would take these model UCC statutes and put them in their own statute. So they would be consistent across the board. So people know what the law is because it is consistent from state to state without federal implications. It was done on a state level.
Rep Ammon - Understood. Do we want to have first mover advantage or not? I think that is the question.If more states had digital asset the UCC would change their code and incorporate those in. If we move forward now we could attract those businesses, that capital, those ideas, innovators, it gives us benefits going forward.
Rep Hunt - So did Wyoming change their UCC statute?
Rep Ammon - Yes they did, along with a few other states.
Rep Hunt - You made the comparison if we had a very valuable painting and we wante4d to have somebody else hold the valuable painting, we have no state laws regulating that. So if we are treating these as special assets, why would we change from what our current attitude is? It is up to two parties involved to figure out what makes it secure. What makes it safe, rather than us getting involved in that transaction?
Rep Ammon - It is the regulatory uncertainty aspect. If a company wanted to relocate to NH, they don't have rules around it. They might not know how to interface with the state.

Question - Rep Hebert - Is the ultimate aim of this legislation that crypto currency will become a legitimate currency like the dollar in the United States?
Answer - It is not a Fiat currency, that is the dollar or the yen or the Euro issued by a government.This is not a government backed or issued currency. The whole process around Bit coin was modeled after gold mining. Gold is something that you dig out of the ground. This would be more like gold, it would be something that people around the world have agreed is valuable. You cannot counterfeit it. If we embrace it, it actually enhances the dollar as staying and competing against all other currencies.
Rep Hebert - I think that the benefits would go to crypto more than the dollar, but the crypto currency has had one very important financial role to play in the world. Over the past decade, I'm not sure exactly when cryptos became.....
Rep Ammon - January 3rd, 2009
Rep Hebert - Illegal activity uses the crypto system in order to operate. People don't understand exactly how much criminal money there is in the globe, but it is astonishing. If crypto has been able to financially help the criminal activities, everything from weapons sales to tax cheating. It had been a primary tool of global criminal capital. That disturbs me. If you associate crypto activities with the American dollar, I have some serious concerns about that association.
Rep Ammon - In the beginning, governments didn't know how to deal with crypto currency but they are getting smarter with tracking the transactions on the block chain. The block chain includes everything about how to find that transaction on the block chain. When moving money back and

forth, you have to a lot of times give them your ID. They have a process to verify your identity. Once they know your identity and you buy bit coin, now they can track those bit coins. When purchased by you, date and time. It is actually a very transparent system. You can actually track down some of these criminals and it is getting easier over time. So having a legitimate company to sell you bit coin or to convert your bit coin creates a way to see who is doing those transactions.
Rep Hunt - Remember the dollar they wanted to solve the problem of criminals using the money by getting rid of the hundred dollar bill or even the twenty dollar bill. So I think he gave a decent answer to it.

Question - Rep Bartlett - You are trying to explain a difficult concept to a bunch of people who are basically volunteers. We are not banking or crypto experts at all. I guess one of my concerns is that though we may be holding the cards as far as whether we approve this bill or not. How do we get more comfortable? Do you think maybe there will be others that will speak to us, repetition is a good teacher.
Answer - I think there are pros and cons coming behind me. We will learn a lot in that debate. I think that there will be some of that. This is already law in at least two states, law or something similar. We are kind of playing a little bit of catch with legislation similar to this. It had been tested already in the real world.

Question - Rep Terry - Can you see any risk with us being late or last to the game? Can we wait for something from UCC rather than following the lead of states? Have there been any reviews for the states who have laws that are working or not working?
Answer - I have only heard good things from the people who sponsored this legislation in Wyoming. there may be downsides to it, but I am not aware at this point in time.
Question - Do you foresee any risks waiting and being later?
Answer - In technology or any kind of communications network there is something called the network effect. All of the entrepreneurs are in Silicon Valley because that area became known for innovation. so, if you wait til last, they are going to find a home somewhere else and we will be picking up scraps.

Question - Rep Greeson - The bill says that banks would be allowed to provide custodial services for digital asset. that property would then be subject to the same reporting requirements under the Patriot Act, If you deposit $10,000 that gets reported and the newly imposed $600 in annual transactions via Pay pal or Venmo get reported to the IRS now. Will the banks be subject to any kind of reporting?
Answer - The regulations around banking could be answered better by someone more expert. I believe a federal requirement applies to digital assets at the federal level.

Question - Rep Beaulieu - Im not sure if it is appropriate but the amount of energy that it takes to make these transactional I'm hearing that it is astronomical. My question is can you address the energy portion of this?
Answer - That is a separate discussion but I will address it. It depends on the consensus mechanism of the block chain. It requires energy for computation. A computer requires energy.

*Lisa Tapp

- I like the immediacy and the openness
- Can track terrorism so it makes investigations so much easier
- Want to see this more widespread
- When providing a service can be paid immediately, it doesn't need to clear the bank
- We could be a leader in bringing banking and crypto currency together
- This is a great time to go forward with this, would like to see it more widespread.
- Actual spending patterns are back to basics, you could buy what you could afford
- If we do it here and do it well, we could help the federal government later

Question - Rep Weston - I want to go through the chain of how you do this. You sent the money is there a bank involved in that?
Answer - When you are using a digital currency exchange, it cashes out into a bank. Able to go to Coin base, open up an app, dump into that bank account.
Question - Your digital currency goes into an account that someone opens, right?

Answer - Yes, that is why it is time here.

*Emelia Galdieri

- Deputy Commissioner for the state of NH, represent the state of NH banking department.
- The banking industry doesn't have a position on the underlying policy of this bill.
- Contemplated to be under our jurisdiction in RSA3 97C and if it is trying to amend the UCC it probably belongs with other UCC provisions.
- The goal of the UCC is to facilitate interstate commerce, so use caution amending the UCC
- Bank is a very defined term in our statutes. There are many different types of banks. There are state banks, trust companies, non-depository trust companies, traditional banks, etc.
- Talking about it falling under RSA 3 99G it is a license type which says bank
- 3 97 is the part it falls in, traditionally considered our consumer credit division, jurisdiction which includes money transmitters
- Going line by line there seems to be a separate fee contemplated going to the bank funding department, it is not consistent with our current funding model. This would need to be amended to be consistent.

Question - Rep Hunt - Where is that fee in this bill? What I saw was towards the end, 0.01 10th of the $1 million related to assets held in custody.
Answer - That is a little different than anything that we funded at the banking department currently.You may want to consider making this consistent and referring broadly to a bank. You will also need a consumer complaint which is not mentioned.

Question - Rep Hunt - When you came up with director and examiner and this whole fiscal note, is that what Wyoming has that they really spend this kind of money?
Answer - This is the baseline of what Wyoming recommended to us. They actually thought we needed a larger amount. It is its own regime in the Wyoming banking department. It requires a division director, and attorneys who specialize in crypto currency. They had to develop a whole examination procedural manual., They hired an outside consultant to develop theirs because that was the only way they could do it in a safe responsible regulatory manner. They said they would lend us their manual that they developed, but we would have to pay for it because they spent a lot of money on it.
Question - Are they bringing in enough money to pay for their banking department?
Answer - I believe so.
Question - At the banking department we have fees. We have fees for when we come to do our investigation if it doesn't meet what the cost of the department is, we have an assessment system to go back and correct and collect some more money. Are they breaking even in Wyoming?
Answer - That would be a question.
Question - They're not self funded, they are general funded?
Answer - I don't want to say. I have to look it up, but it is different.

Question - Rep Herbert - When someone writes a check, in Bit coin and goes to a bank and it goes to a vender or the recipient and gets turned into dollars, I'm unclear as to how that happens.You can order something in bit coin and it'll go wherever your bank is. I don't see the issue, as we are already using bit coin as our currency.
Rep Hunt - What is your question?
Rep Herbert - That is my question. I thought it was not legal. Obviously at some point it became legal if you can have a bit coin account. Have we already adopted a second currency?
Answer - Galdieri - So the easiest way for me to answer your question is to say that there are currently7 licensed money transmitters. This is very oversimplified. We currently license money transmitters who will take your bit coin and give somebody else money like currency. so we only regulate it when there is a third party. We currently regulate entities that take Bit coin and give our Fiat currency. We do not regulate companies that take Bit coin and only give and take bit coin. That was specifically exempted in 2017. We developed a specific exemption from our money transmitter laws for folks who do money transmission of CRI like the third party with just the crypto on either side.
Rep Herbert - The third party is not a bank. It's somebody who has access to bit coin and has agreed to send out those dollars? It is not a bank, it is a business right? I have never heard of these organizations.

Rep Hunt - They did the money transfer business. Everybody used to think of Western Union. The easiest way is to go to Palmar and transfer money to a Walmart close to them. But that is cash only. It is not bitcoin.
Answer - Galdieri - Correct. We regulate consumer credit division licensees. In addition to banks, credit unions, trust companies. Then in consumer credit division, we regulate money transmitters, small load lenders, mortgage bankers and brokers. Money transmitters would be the type of entity that you are talking about.

Question - Rep McAleer - You mentioned some of the places where you thought that this existing law was not adequate. Do you have an outline of an amendment that would cover your concerns that we could take a look at?
Answer - I don't have anything in writing at the moment, I could develop something. It would be pretty extensive though for the two bills HB1502 and HB1504. We have done the analysis and gone essentially line by line on 1502 and 1504 to figure out what would need to change.
Question - So, could we get that?
Answer - Absolutely

Question - Rep Abel - Under HB1502 what would be the RSA or the division of the banking dept that would control regulating this kind of endeavor?
Answer - If we are talking about all three bills it is kind of working together to create a new regulatory regime. We do not currently have a division that could absorb this type of work. That is why we added the fiscal note that we would basically need to establish a new division, create all of the training, get the extra program up and running. It will be quite the endeavor because we don't have a place to put this right now.

Christy Merrill and Ryan Hale of NH Bankers Association

- Represent 38 member banks which employ nearly 6000 employees.
- We oppose bill 1502
- Understand what the sponsor is trying to do
- Area our members are interested in and we think they would benefit from additional regulation
- Major concern is with the legislation because it amends the uniform commercial code.
- Undermines the uniformity that is central to the uniform commercial code, the uniform law commission. They have a long history of working to ensure commercial transactions are treated with uniformity among states.
- There is a working group grounded in their expertise in this complicated and evolving area. I have included a memo from the ULC that outlines the work they are doing and also ver specifically address the concerns with 1502.
- UCC has been adopted in nearly every sate.
- Provides banking clarity and commercial lending
- We are of the opinion that the changes to the UCC should not occur outside of the framework that they have established.
- The ULC is vitally important by providing clear and consistent rules and procedures across the co9untry to ensure uniformity across all 50 states.
- Ask that the committee hold off on passing this bill and wit for the ULC to complete their work.
- Vote for interim study or ITL.

Question - Rep Herbert - Do you have any concerns about the ability of Bit coin to be used in laundering money from Bit coin into dollars and back again?
Answer -The short answer is yes. I think some of the regulatory schemes that are in place today fore banks help provide safeguards against nefarious actions, We are advocating for similar treatment that banks receive are subject to the rules of FinCen which they specifically look at protocols that they have to follow to avoid anti-money laundering and things like that. They specifically look at anti-money laundering and things like that. We think that banks have a regulatory scheme in place to address those concerns. The banks have very specific protocols that they have to follow to avoid anti-money laundering and things like that. We think the banks have a regulatory scheme in place to address those concerns. Protections are added.

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1502-FN

BILL TITLE: **relative to digital assets and digital securities.**

DATE: **January 12, 2022**

LOB ROOM: **302-304** **Time Public Hearing Called to Order:** **1:15 p.m.**

Time Adjourned: **2:25 p.m.**

Committee Members: **Reps. Hunt, Potucek, Ammon, Greeson, Johnson, Terry, Bartlett, Abel, Weston, Beaulieu and McAleer**

Bill Sponsors:

Rep. Ammon	**Rep. Alexander Jr.**	**Rep. Osborne**
Rep. Warden	**Rep. Edwards**	**Rep. Berezhny**
Rep. Baxter	**Rep. White**	**Sen. Avard**

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Ammon

Thank you, Mr. Chair. Good afternoon committee members. So, the next three bills that we're going to hear are kind of similar and related. So, I think I'll put an introduction in, in this testimony and kind of cover three birds with one stone, if that's okay. So, I have a little personal story. I, I went to a friend's house, recently, for a housewarming party and he, he printed something out and he gave it to me laminated as like a memento. I think he was kind of teasing me, a little bit. So, on, on this, I don't know if you can see it, I can pass it around, is a QR code to purchase honey, a jar of honey. And this took place back in 2012 in July. So, about 10 years ago almost. And he has a picture of me buying the honey from him. It was the first jar of honey that he sold bees were raised on his own farm. And there's me with apps that we downloaded from the app store purchasing that jar of honey for one Bitcoin <laugh>. And on the back, he has the transaction information. So, there's the, you can look this up on the blockchain, this tra this particular transaction at the time that jar of honey was $9 and 45 cents. And one Bitcoin now is worth about $44,000. So, that's the most expensive jar of honey that I ever bought in my life, but it was, it was a very, mundane transaction. And I'll give you a little history in, in New Hampshire. We were one of the first states to pass legislation in 2017 and it came through this committee. there was a study commission created, and there was a representative from blockchain industry were appointed. Jeremy Kaufman, who owns company called library out of Manchester was the governor Hassan's appoint appointee. and out of that commission came a bill, in 2017 that was signed into law. Barbara biggie was the vice chair of this committee. She was the prime sponsor of that bill. And that's my recollection. I was a co-sponsor I thought was Laura Jones. She, she had sponsored an earlier bill that kind of went sideways. Right, right. Okay. but here's a picture of a signing ceremony with the governor. It was kind of fun <affirmative> and, Barbara biggie, wasn't able to attend this. She had another issue, but there's, Bart Fromuth who was also on this committee. Yeah. he was one of the co-sponsors and we signed, we, we held up a banner with the governor that said, build your blockchain powered economy here in New Hampshire. And the idea was to attract businesses in this new form of technology. So, that's a little background on, on, new Hampshire's history. We were one of the first bills, bills to pass in the country. And since then, other states have passed legislation, the national council on state leaders, state legislatures. They keep track of cryptocurrency legislation going back to 2017. And our bill is one of the first in their list. As of last year, 2021. They tracked 33 states and Puerto Rico had pending legislation in their legislative session and 17 states enacted installation or adopted resolutions. and most of it is in favor of supporting this industry. I know it's a difficult topic to understand. I'm going to try to make it as simple as possible. the technology that was invented that

supports Bitcoin it's a BR it was a, a novel innovation. and it's the idea around representing property rights in the digital space. That's really, if you could fund, if you could boil it down to its fundamental core, it's the idea that a digital token <affirmative> that you can prove that you own that token, and that token gets recorded in a big ledger that everyone has access to. And you can prove you can mathematically prove that you own that whatever that token represents, and the token can represent different things. It can represent a number, let's say a, a unit of a virtual currency. It could just a simple number that you have 10 of something or nine of something, but it can also represent, additional types of information. It can represent artwork. It can represent physical real estate. It can represent almost anything that you can apply property rights to can be apply. This technology can apply to that. And my supposition that most property rights in the future are going to be proven with technology similar to this, whatever that property is, whether it's virtual, whether it's in the metaverse that we hear a lot about, or whether it's in the real world. So, this it's, it's not, some might characterize Bitcoin as beanie baby fad. it, it, it could be looked at that, but it's a much, much bigger it's on the scale of an innovation, similar to the internet and how the internet has changed our lives. This technology is being built out much of the innovation happening on the internet is happening in this space. So, that's a little background on that. So, what's happened is different states have taken a position to try to attract not only the innovators, but also the capital that that can be represented by this to their jurisdiction. even cities have gotten into the mix. The, the city of Miami, the mayor of the city of Miami is actively trying to promote innovators in this space to come to Miami and put their headquarters there. The, the newly, the newly sworn in mayor of New York city, Eric Adams, who's happens to be a Democrat. He says that he wants to attract Bitcoin and blockchain technology to New York city and to there's quotes in, CNBC magazine, that he says that schools should add cryptocurrency and blockchain technology to their curriculum. He says, it's, it's the new way of paying for goods and services throughout the entire globe. And that school's much must teach the technology behind it. So, this is not a partisan issue. This is, you know, people that are for thinking are interested in this space. the country recently of El Salvador has added Bitcoin to its legal tender laws, which is kind of interesting. And they're currently mining it with energy that they harvest from a, from a volcano. So, they're using geothermal energy from a volcano to mine, Bitcoin for, and they're using that for their, their state treasury. So, similar laws will pass around the country, Texas, Nebraska, but particularly Wyoming is way far ahead of us on, attracting this, these types of, this type of industry to their state. So, this next bill has to do with the banking industry. <affirmative> So, we're, So, I'll introduce 1502. I should have done it at the beginning house bill 1502 specifically deals with the banking industry. And in, in, in summary, what it does is it gives the banking industry, rules around how to custody, digital assets. So, that's, that's really the, the gist of it. So, we understand, like if you, if you look at PayPal, they've adopted cryptocurrency. If you look at other, you know, financial services, they're incorporating this into their, their platform, you know, this type of technology, and this bill here would, would provide guidance through our state securities laws, to the banking industry, that if they custody digital assets, that they have to follow certain rules to protect, to protect consumers and, to make sure that, you know, someone isn't defraud of their valuable property, that happens to be digital. it provides some definitions, around digital assets, digital securities. it talks about something called a multi signature agreement, which is, I won't get into what that is, but it's basically, if you think of a nuclear launch, you need two keys to launch the nuclear, missile. That's what a multi signature arrangement would be. So, you would have one key and you'd give another key, but together you'd have to jointly, unlock something to move it. So, some of the opposition, I think we'll hear around this bill is that crypto is volatile and that's true. It is volatile. the total market cap of all cryptocurrencies $2 trillion. And that doesn't include things like non funder tokens, which you've probably heard a lot about recently. the Bitcoin itself is about $800 billion market cap. When we first introduced legislation around this topic years ago in this legislature, it was, it was, seen as something So, new. It was hard to, for people to get their heads around, but you fast forward to today and you turn on CNBC or Fox business or whatever financial network you watch. And you'll see the price of Bitcoin quoted along with all the stock indexes. as a matter of fact, Matt Damon started doing commercials around one of the companies, and you know, you can't get away from it. It's becoming a much bigger, industry. And it has, as I mentioned in the beginning, it has the potential to affect anything that requires proof of property rights, whether that's digital or physical. So, that's a big umbrella of potentiality. I think that's about it for now. I probably have a few more points as we introduce the, the further bills, but this bill 1502 is sort of a sister bill to 15, oh, for, they both deal with similar issues around the rules of custodying a digital asset. So, if, if you hand someone, let's say it's a Mona Lisa, a very expensive piece of art and you, you don't want to keep it in your

home. You want to give it to someone to safeguard for you. It would be the rules around how to safeguard that, that, that expensive piece of property. That's what this bill deals with. And it applies specifically to the banking industry and one final word, I'm open to amending this, improving it and making it useful for our banking industry So, that we can attract, you know, there's a saying, capital goes where it's welcome and this capital can go anywhere in the world, any nook and cranny of the world, regardless of national boundaries, even. So, if we make New Hampshire a place that is welcoming to this capital, but not only the capital, the innovation, the people that thinking of new, innovative ways to build products and services around this, we, we have a, an opportunity, a brief opportunity to make New Hampshire, one of the places that people, might want to come to. So, with that, I'll take any questions.

Rep McAleer

Q: Who wrote these bills? Did you write these yourself or these sort of cookie cutters that have been presented at, at other states?

A: Yeah, So, I, I make a hundred dollars a year. I don't have a staff and I'm not an expert in, in this. So, I borrowed these from Wyoming with the blessing of a prime sponsor that sponsored these in Wyoming. Okay. And his name is Tyler Lindholm. He's a state rep, former state rep from Wyoming. He's now currently a staff member for Senator Lummis out of Wyoming. And Senator Lummis is a big crypto advocate in the US Senate. She's part of I, her along with, the Senator Kyrsten Sinema, the two of them are big proponents of this industry in DC, but the prime sponsor was Tyler Lindholm. They had a big team in Wyoming working around this, and it was adapted from that Representative.

Rep Abel

Q: What is the status currently of digital assets in New Hampshire AB you know, absent this law and how would that, how would that change if this law were enacted?

A: What we passed in 2017 was sort of like laissez-faire, hands off, only, consumer protection applied. So, this would ground, you know, in the last four years, I've seen our laissez-faire attitude has caused companies in this space who are used to dealing with regulations. They, they didn't know how to, they don't know how to handle our state because other states have regulations on the books. And because our market is sort of small, you know, we're kind of an afterthought. So, this would give some regulatory clarity around financial services companies. I'll mention this because it's public record, you know, New Hampshire. We have really solid trust laws where we're kind of like the forerunner of really tight trust laws. There's a company called BlockFi. You've probably heard of Coinbase. Coinbase went public. They had their IPO last year, on the us stock market. They're I think a 62 billion market cap does, I think they're based in California I believe, but there's other companies in this space, there's one called BlockFi and BlockFi has different, uh, crypto offerings. you can get a credit card. If you go out to dinner, you can earn crypto as a, like a cashback reward for your purchase. So, BlockFi in earlier 2021, they filed with our banking department for a trust company in New Hampshire, but they, they pulled it, I believe it was in September. So, they, they came in, they were going to use our trust laws and then they, they went out. I don't know the reason for that. It was it's, that's all confidential. I don't think I'll ever know, but there's an example of a pretty big company in that, in that space that was tipping their toe in the water for, for New Hampshire and somehow got scared off. So, if we could fix that problem with legislation similar to this, that would, from our jurisdiction, I could, I could ramble on stop me if I'm talking too much. in talking to Tyler, their banking department, they help push these bills through and, and many more their banking department is they, he says they're flush with cash because they have annual filings every year from lots of these companies that are registering. And they're actually Wyoming is, has actually become second to the state of Delaware for corporate filing income. And a lot of it has to do with this type of legislation.

Rep McAleer

Q: I may have a follow up question, but my understanding that Bitcoin is not considered a security, what we consider a stock or a bond, but I'm, I'm looking at 21 through 29. And let me read it to you. Digital securities are intangible personal property and should be considered securities. But then it goes on to say is defined in RSA 382, et cetera, et cetera. But it is not a security per se, that would be subject to what rules by the security in exchange commission. Is that correct?

A: So, this, because there are So, many layers to this technology space. Okay. So, Bitcoin is considered digital property, right? And Bitcoin's kind of like a, you could say a dumb network. It all, all, it's a big Excel spreadsheet of who owns what that's basically what Bitcoin is, but there are layers on top of it. Something called smart contracts. So, Ethereum is a smart contract platform and you can create all kinds of digital tokens that are it, there's something called the Howie test where they there's a, a question going back. I forget, what was the 1940s or something? I forget the exact date, but there's a test to decide whether something is, security or not. And you can create on a smart contract platform. You can create something that looks more like a security.

Q: Well, So, as, as a follow up, for example, Fidelity has a digital currency ETF that would be considered a security. Would that be correct?

A: An ETF is registered it with the SEC.

Rep Hunt

Q: So, this one is the UCC one. and historically I've been around long enough to every once in a while, UCC comes down and, that comes, think it's in Chicago where they, they make these UC and the purpose of the UCC was to be uniform across the country. And, but So, if this is going to be, our own UCC form, then it's not necessarily comes from them first in other sort of, this is the cart before the horse, because usually we wait until they have come out with their UCC, which I think they're working on number 12 <laugh> I don't know what happened to 10 11 in between, but So, number 12 was supposed to be this wouldn't we be better for us to wait until they actually come out with their UCC rather than having to pass something and then have to repeal it and replace it with the new UCC language?

A: I mean there's philosophical things around relying on some third party to write our state laws, right? So, we, we wouldn't want to seed our sovereignty. There's a reason why we have securities laws in, in the state statutes and it's the purview of the legislature to modify it. The, the downside of waiting is that it once it's uniform or once the federal government comes out with

Hunt: It's not federal government

A: I know it's not, but either or.

Hunt: It was designed So, that that laws wouldn't be federal laws that each state would take these model UCC statutes and put them in their own statute. Understood. So, they would be consistent across the board. So, people know what the law is because it's consistent from state to state without federal, you know, implications. It was done on a state level at the state level.

A: Understood. I guess it's, do we want to have first mover advantage or not? I think that's the question. And also, the more states that adopt legislation like this, it would inform that process, right? They, they, they would most likely try to, you know, if, if multiple states had, digital asset, changes to their UCC code, that they would incorporate those in. but it's that first mover advantage, you know, there's a few years here where, we could, we could move forward. And once we attract those businesses, that capital, those ideas, you know, those innovators, it gives us, benefits going forward.

Q: So, So, Wyoming has, they did change their UCC statute?

A: Yes, they did. Along with a few other states. Texas, I think is one.

Q: My last question is, is you made the comparison if we had a very valuable painting and we wanted to have somebody else hold the valuable painting, we have no state laws regulating that. So, that you're asking us to say, to treat this as a, I think the, a member of the banking department used to call, Beanie Babies is her comparison. So, if we're treating these as special assets, why, why

should we change from what our current attitude, which is it's up to those two parties involved to, figure out what makes it secure? What makes it safe rather than us getting involved in that transaction?

A: You know, I, some of my friends are going to get mad at me for saying this, but it's that the regulatory uncertainty aspect, I've, we've seen that with what we did earlier on that a, a company that let's say like block FFI, who wants to move from New Jersey to New Hampshire and they don't have rules around it. you know, they, they might not know how to, how to, you know, interface with the state, that way.

Rep Herbert

Q: yesterday I was watching the Senate banking committee, interview with, the federal reserve chairman Lewis Powell and Senator Lummis, who was, in her first term. I think she just was elected to the United States Senate, made reference to, special purpose depository institutions that Wyoming already has, promulgated. But she said she was severely disappointed in that, her request, chairman Powell to present to her in the committee, a regulatory structure, legitimizing, cryptocurrency, crypto as a currency. So, I could tell from the reaction of the chair that he was, not ready to talk about it. I have, uh, I think I have a pretty good understanding of what a currency is. So, I, I, my question to you is, is the, the ultimate aim of this legislation. And I'm sure there will be further legislation if this passes, is it the ultimate aim of the cryptocurrency, which is which everybody talks about it as a currency, will become, a legitimate, currency, like the dollar, in the United States.

A: Yeah, that, that's a really big question to, may maybe afterwards we can discuss that a little further. My short answer would be the word cryptocurrency is kind of a misnomer. It's not, it's not a, a Fiat currency, a Fiat currency would be the dollar or the Yen or the Euro issued by a government. You know that it, this currency is based on mathematics currency in the, in the, in the way that you can, let's say you had marbles that people thought were valuable and you could trade those marbles. Right. You know, or, or cigarettes in prison might be considered a currency. Right. But it's not a government backed or issued currency. It's it's, it's interesting though. The whole process around Bitcoin was modeled after gold mining. So, gold is something you dig out of the ground, takes energy to get out of the ground and it's, you know, universally valued and it's the visible, and it doesn't corrode. It has all the characteristics of a currency. but it would be more like gold, you know, it'd be more like something that people around the world have agreed is valuable. And the reason that they agree it's valuable is because of the technology behind it doesn't allow for, counterfeiting it. So, I, and like I said, I could talk for hours on this. but it, So, it's, it's not, it there's actually arguments for Bitcoin, enhancing the us dollars reserve currency status if it's adopted. So, there's actually longer arguments about, you know, if, if the us shuns Bitcoin, it could challenge the dollars us reserve status or the global reserve status, but if we embrace it, it actually enhances the dollar as staying and competing against all the other currencies.

Q: I think that the benefits would go to crypto more than the dollar, but, the crypto currency has, has had one very important, financial role to play in the United in the world as a matter of fact. Okay. Over the past, decade or more, I'm not sure exactly when cryptos became...

A: January 3rd, 2009

Q: Since 2009. Yeah. Okay. it's common knowledge that, uh, a lot of, uh, illegal activity is uses the crypto system in order to operate. And I, and I'm talking and it's in, as you said, the trillions people don't understand exactly how much criminal money there is in the globe, but it's astonishing. Anyway, the, So, it, crypto has, been able to, financially, help, criminal activities, everything from, weapons, sales to, tax cheating, to, your question is, yeah, well, it, it has been a primary tool of, global criminal capital. That disturbs me a little bit. That's your question? My question is, if you associate, as you want to do crypto activities with the American dollar, I have, I have some serious concerns about that association. Okay.

A: And do I believe that? So, again, there's a longer answer to that. in the beginning, governments didn't know how to deal with cryptocurrency, but they're getting smarter around, around tracking the transactions on the blockchain. I, I showed you this earlier. I know you can't probably see it from

your seat, but it includes everything about how to find that transaction on the blockchain. And if, if you know, who owns the key <affirmative>, going in and, you know, who's the key who owns the key going out, then you're able to tie those two things together. I probably have, I don't know, five apps on my phone that I can tr like this second, I could move Bitcoin to dollars or dollars of Bitcoin, back and forth. And I could send you dollars. I could send you Bitcoin or any other currency it's already pervasive, everywhere. The fact that like Coinbase or, or some, one of these exchanges, you have to tell them who you are. You have to give them a lot of times your ID and, you know, they have a process to verify your identity. And then once they know your identity and you buy Bitcoin, now they can, they can track those Bitcoin were, were purchased by you at a certain date and time. And so, there's, it's actually a very transparent system. And as governments around the world are getting more sophisticated with how to track the transactions. You can actually track down some of these criminals and it's getting, it's getting easier over time. So, having a legitimate company to sell you Bitcoin, or to convert your Bitcoin creates a, a, a way to see who's doing those transactions So, that they can't evade, law enforcement, or this is.

Hunt: Remember the dollar bill they wanted to solve the problem of criminals using the money, the American cash by getting rid of the hundred-dollar bill, even the $20 bill. Okay. So, I don't think it's, I mean, I understand you're asking the question and he gave a, a decent answer to it.

Rep Bartlett

Q: You're trying to explain a difficult concept to a bunch of people that are, are basically volunteers, right? We aren't, we aren't banking or crypto experts at all. So, I guess that's one of my concerns is that though we may be holding the, the cards as far as whether we approve this bill or not. How do we get, how do we get more comfortable? Do you think maybe there'll be others? That'll speak to us. That'll continue to repeat. Cause repetition's a good teacher.

A: I think there's some pros and cons coming behind me. I that I, we learn a lot in that debate. Right. So, I think there'll be some of that. I mean, this is already law in, in at least two states, law or something similar. So, it, it's not, I, I wish it was the first and the brand, you know, the shiniest newest thing, but we're kind of playing a little bit catch with legislation similar to this. If you know, it's, it's kind of been tested already in, in the, you know, in, in the real world.

Rep Terry

Q: In addition to, what you've already shared with us. do, do you first, can you see any, any, any risks with us being, what I'll say, either late or last to the game, for example, waiting for, something to come I'm from UCC rather than following the lead of states, such as Wyoming. And did you say Texas, Texas, and there's a few others, so, so, So, you, you see any risks with us not doing anything and just sitting and waiting that's part, one of my question in part two is given the fact that there are now laws on the book and experiences in Wyoming and Texas, have there been any, uh, reviews yet as to how the laws are working and, have there been any, any specific problems that need to be addressed as these, two states have led the way?

A: That's a good question. I think Texas has, has, it's been So, recent out of, there's probably not much history on that Wyoming, Wyoming. I've only heard good things from the people that, sponsor this legislation in Wyoming. There, there, there may be downsides to it. I'm not aware of any at this point in time.

Q: In the first part of my question is, do you foresee any risks? Let's be, waiting and being later last, essentially.

A: So, in technology and, and really any kind of like communications network, there's, there's something called the network effect, right? So, if you, like, technology's kind of sticky if you like Silicon Valley is where all the, entrepreneurs go and, and they, you go there because the, that area became known for that, type of innovation. So, if you wait till last, they're going to find a home somewhere else and to get them to move from Wyoming or somewhere else, and, and, you know, put their headquarters in New Hampshire, it's going to, we we'll be picking up the scraps at point, if

we're just on a level playing field. That that's the way I see. I think there is a disadvantage in waiting.

Rep Greeson

Q: Thank you, Mr. Chairman, and thank you, representative Amon, according to, house bill 1502, it says that, banks would be allowed to provide custodial services for digital asset. That property would, then these banks be subject to the same reporting requirements, such as, under the Patriot Act. If you deposit $10,000 that gets reported, the newly, imposed, $600 in annual transactions via PayPal or, Venmo, those get reported to the IRS now, will this, will the banks be subject to any kind of reporting such as that if there's transactions, cause like you just said, one Bitcoin is over $40,000, right? which it's gone down about $9,000 in the last week since I bought some, that's my fault. I tanked the market. Thank you. But, what, what, would they be subject to those same reporting requirements?

A: someone more expert in, the regulations around banking could answer better, but I believe that's a federal requirement and I Don how it applies to digital assets at the federal level, to be honest with you. yeah, the, the Bitcoin roller coaster guy is like a meme on the internet that, was created. I, I don't know if you're familiar with that. Does anybody, does that ring a bow anyway, but the fact that it's, the market can be a roller coaster. there's a cartoon meme. That was made by a guy in New Hampshire and, and now he's selling non fungible tokens of his meme, like, and he, and he's doing it on the Bitcoin blockchain with something called Counterparty. So, that's, New Hampshire based.

Rep Beaulieu

Q: I'm not sure if it's appropriate, but the amount of energy that it takes to, you know, make these transactions, I I'm hearing it's astronomical. I mean, it, it really is not too energy efficient is that that's a question. You sort of address the energy portion of this?

A: That's sort of a separate discussion, but I, I will address it. it depends on the consensus mechanism of that blockchain. So, consensus is, here's a real easy example. Let's say you have an Excel spreadsheet or a word document, and there's changes being made to it, but you want everyone in the world to agree on those changes, that's consensus, right? So, it's a, an algorithm to allow everyone to agree on the same version of something that's changing. And there's something called proof of work algorithm that was that's called Satoshi consensus. That's the first, algorithm. And that does require energy. It requires energy because it requires computation. So, a computer requires energy. It requires electrons to, to compute. And so, the, the computation is what creates the consensus. So, that's where the energy consumption comes from, but there are other blockchains, something called proof of stake, which is requires much less energy. There's something called avalanche consensus. There are other algorithms being developed to provide that consensus that don't require energy. there, there are arguments that Bitcoin is incentivizing green energy, believe it or not. I mentioned the, the example in El Salvador, they're using geothermal from a volcano. there's a project in Pennsylvania. So, you have a nuclear power plant, the power plant. It's not easy to switch it on and off, right. and for renewable energy, you need base load power because the sun's not always shining and the wind's not always blowing. Right? So, you and you can't really store electricity on a grid scale. So, you need base load power, and that can be provided by a natural gas or, or, nuclear. So, in Pennsylvania, there's a project, they have a nuclear power plant it's profitable. The, the energy's profitable sometimes, and it's not profitable other times to go onto the grid. So, they're building a Bitcoin mining facility next to the nuclear power plant. So, when the energy's not profitable to go onto rid, they turn on the mining facility and they, they create potential economic energy. If you think about it. So, that's a, that's a big, that's the size of a nuclear power plant, that project. So, now there, there, there's, that's a whole 'nother long conversation happy to have. but there, there there's arguments that it's incentivizing green energy or, you know, carbon neutral energy. It does all, you could use coal, any, any kind of energy you could use to, to mine for the proof of work algorithm. But so, interesting question.

Lisa Tapp

Good afternoon. Thank you, Mr. Chair, Mr. Vice chair and members of the committee. I am signing in and testifying in favor of all three bills, but with the chair's permission, I will speak just once, unless otherwise needed. Good. Sure. We love that. I am both an attorney and a nurse practitioner here in New Hampshire. I will briefly describe what brought digital currency to my attention and why I thought it was better to get it more widespread in society. And then I explain about why I think this is a good time for it to happen here in New Hampshire. So, I first, learned about the background of, of digital currencies via a white paper that was written that, described a database that was immutable and allowed for immediate action. And I thought that was terrific because as a nurse practitioner and an attorney in both situations, I find that when people can't immediately appreciate what they're doing in terms of spending money or any other action that leads us to problems down the road. So, I really liked that immediacy and I like that it's open, um, speaking to representative Herbert's concerns about illegal activity. I regularly attend the American bar association, digital currency conferences, and they're lovely. They're, several attorneys in the field as well as federal prosecutors from several branches of government. And this is a concern of mine as was a concern of theirs. And over and over again, what I hear at those seminars is nothing will ever top the American dollar as, as a valuable resource for terrorism, unfortunately, but when people who engage in terroristic or predatory activities to use an open blockchain, it's a real Bo to the federal government because it's all trackable. So, there was a lot of interest actually in not shutting down that kind of activity because it makes investigations So, much easier. And I share that concern and several federal prosecutors have laid those concerns for me at these conferences that I attend, but I want to go to the most poignant example of why I thought it would be good to get digital currencies, more active in our system. And that's because as a nurse practitioner here at the state prison up the road, I started a clinic for, for halfway house members who are about to transition back into the community, and they need to establish their own healthcare. And when it came to sitting down and we literally practiced conversations, and many of the, the men that I worked with at that time were not good at describing what they need. So, we practiced how you're going to sit down and how you're going to talk to your physician about what you need, what your healthcare concerns are. It always went back to money and I didn't understand that. And then I realized that inability to handle money had gotten a lot of the men I was working with into the situation they were with. However, if you learn to handle money via digital currencies, you learn that it's immediate. You're not dealing with credit. You're not dealing with speculation. You pay what you have, and if you don't have it simply can't pay it and you can't get into as much trouble. So, that aspect appealed to me and I wanted to see that become more widespread in society. So, I went back to school. I, I attended university of New Hampshire law school originally in the 1990s. And I went back recently and became certified in digital currencies. and I believe I've spoken with rep present Bartlett, actually at a digital currency seminar a couple years ago. It's been a wonderful experience here in New Hampshire. I think we're doing it very responsibly. And the reason that I think it's great to tie in the banking industry now is because I want to see this more widespread. I want to see the men that come out of the prison, learn how to in act immediately. Like this will be the consequence of the debt that I take on. This will be the consequence of giving up the money for what I want. And when I provide a service, I can be paid immediately. I don't need to wait for it to clear through a bank. However, banks have good experience and helping people manage those things. And I think if we can bring digital currencies and banking together as he Wyoming, and some other states that representative Ammon referenced, I think we could really be a leader in that. I think it teaches transparency, honesty, and it's immediate. A third point I'll make is it's contactless. And the reason I bring that up is because I have family who live in New York and they're currently on isolation due to having COVID 19. And they, they had a, a bill coming due. It's a very standard bill, not a big deal, but they typically go to the bank or transfer. So, money's online ahead of paying it. Well, the way things fell, one person's paycheck is not coming into the same place that it used to. They, So, they didn't have the ability to transfer within one bank online. They couldn't get the funds to where it needed to be before the bill was due. So, what we did was I was able to send them digital currency through Coinbase. They set their Coinbase up to interact with the bank that needed to have this bill paid. I sent it to them within two hours. They were able to pay the bill. The only other option I would've had would be to wire. I mean, my family's home on quarantine. They can't go to a bank and none of us had this kind of time. And I realized this contactless currency, this offers a lot more than I realized. Immediate contactless currency is something that we're ready to go forward with in New Hampshire, I'm here to help. I know there are several crypto geeks like me who are here to help as well. Representative Ammon has led the way with, of establishing, establishing a presence here. So, I think this is a great time to move forward with this. I'd like to see this more widespread. I think it's a back to basics.

Although the technology is new, the actual spending patterns are back to basics. This is how you spent money in the early 20th century, you bought what you had in the, and could afford you. Didn't speculate as much. You immediately saw the consequences of work that you did and obligations that you took on. So, another reason that I think it's a good time to move forward with this is coming out of these American bar associations. I'm sorry, association seminars that I attend. I realize how overwhelm the federal government is right now. I work with prosecutors from several different divisions of government, and everyone's got too much on their plate, but we have it going on here, you know, to use a colloquial term, we can do it. We can go forward. And when they're able to get to this, when the other things have cleared off their plate, we're there to help. I would analogize this to 1998. I hosted the barn, civil, bound civil right form here in Concord, New Hampshire. It was re related to laws and regulations of use of the internet. And we hosted some people who had argued seminal case in the second circuit in Philadelphia. And in the years to come after that, we were regularly consulted for think tank ideas that came out of the conference that we held. I think if we do it here and do it well, we're there to help and make it easier for the federal government later, if they wish to look toward this issue. And that's about the gist of my comments, I'd be happy to take questions if the chair approves.

Rep Weston

Q: Could I back you up just a little bit, Mr. I, I just want to go through the chain of how you did this. Yes. you were helping a family member. Yes. you needed to be able to get digital currency So, that they could pay a bill. So, you, you went to your account mm-hmm <affirmative> and you sent money to their account. Mm-hmm <affirmative> is that correct? Correct. Now, is there a bank involved in that?

A: Yes. So, when you're using a digital currency, exchange it cashes out into a bank. Okay. This was more about logistics. They had the funds, but they were in a bank not attached to the bill that they needed to pay. Typically, a direct deposit check comes into that bank, but my family member can't work because he has COVID. So, we needed to get to the funds into that bank. And so, he was just able to go right on Coinbase, open up an, that dumped into that, that bank account. And then I just transferred it and it was faster than trying to go to a bank. And, and it was possible because you can't go to a bank when you're quarantining. Right. Okay.

Q: o the money went right into the yeah. Yeah. Your digital currency went right into the account that he opened up. Yes. Then he took that money, and it went right into the bank. Yes. And then by EFT paid the bill?

A: And I was, got it. Like, why did I not realize how valuable contact this currency is in our society? Let's talk about that more, another great reason. Why it's time here.

Emelia Galdieri

Thank you. Sorry. good afternoon. My name is Emelia Galdieri, I'm the deputy commissioner for the state of New Hampshire, and I represent the state of New Hampshire banking department. Thank you for hearing my testimony. with regard to HB 1502, the banking department doesn't have a position on the underlying policy of this bill. however, if this is a direct in that the legislature would like to go, we do have some concerns about the, this bill itself and how it would need to be changed to make it more workable for the department. for first it seems to be contemplated to be under our jurisdiction in RSA 3 97 C I think. and if it is trying to amend the UCC, it probably belongs with the other UCC provisions, I think. Right. and just some caution about amending the UCC. I know some other folks have talked about it, and I think you're going to hear from some other folks who are going to talk more about it. But I think one of the goals of the UCC is to facilitate interstate commerce. And that's why you want to be very careful about amending it, because you want your UCC to match other states UCCS. So, that way, when you're exchanging negotiable instruments between states and you know, if one of the goals of crypto currency, culture, or transmission, or what blockchain, and whatever, piece of it, you want to be involved in, you most likely want to be able to get it to another state. So, generally speaking, I think that's a reason to be very cautious about amending the UCC. And I think more people are going to talk about that probably today. So, a couple of the high-level issues that would need to be resolved in this bill, putting that issue aside. it talks a lot about banks. and bank is a very defined term in our statutes. It defined a bunch of different ways. there

are many different types of banks there's, state, if you talk about state banks that includes trust companies, non-depository trust companies, traditional banks, and So, forth. and it's not defined in this bill. So, you would want to be very careful about who you're talking about. I hear a lot of talk, at least in the last testimony about what we consider at the banking department money transmission that falls under RSA 3 99 G it's a licensee type, where this says bank. I don't think it contemplates that, but interestingly 3 97 is part it falls within.what's traditionally considered our consumer credit division, jurisdiction, which includes money transmitters. So, just kind of some confusing things that would need to be worked out before anything could move forward on this. there's one other big or maybe two are big issues that are, that I see just looking at this at a high level, not going line by line is there seems to be a separate fee contemplated going to the bank banking department. that the way that fee is designed, it's not consistent with our current funding model. So, that would need to be amended to be consistent.

Hunt: Where is that fee in this bill?

Oh gosh, I knew you were going to ask me that. Let's see here. Let's see if I can find anything.

Hunt: I saw was, it's towards the end 0.01 10th of $1 million related to assets held in custody.

And I apologize. I could not print the version with the line numbers that's fee. Right. but that is it. Yep. That's a little different than anything than any way we're funded at the banking department currently. So, you might want to consider making that consistent, and where this seems to be having its own chapter and referring to broadly a bank. Once you figure out what you mean by bank, you may want to build in some sort, if we're, if we're going to be, you know, having jurisdiction over these type of transactions or, you know, I don't, I'm not really sure exactly what's going on here, but if, if, if want us to have jurisdiction, you probably want to have a complaint process for consumer complaints and that doesn't seem to be developed in here at all. traditionally when we regulate an entity type, we want, you know, consumers come to us all the time and that's an important part of what the banking department does. So, we would want to make sure that any consumer who came to us would be taking care of. So, I think looking just at this bill, I know it's part of the trio of bills that you're talking about today, but I don't want to confuse things by going into the 1504, now, but at a high level, that would be the banking department's concerns about this one. And I'm happy to take any questions.

Rep Hunt

Q: When you came up with director and examiner and this whole fiscal note, is that what Wyoming has that they really spend all this kind of money?

A: Yeah. So, So, that we did sort of one fiscal note for 1502 and 1504. Yeah. Same that, So, we actually went to Wyoming, and this is the baseline of what Wyoming recommended to us. He actually the commissioner of Wyoming, Albert Forkner. We spoke with him. He actually recommended asking for more, because they're finding they need more than this than what we put in our fiscal note, because it's really a truly in terms of 1504 now. it's really truly its own regime it's its own division at the Wyoming banking department. It requires a division director attorneys who's specialize in cryptocurrency. Oh exam. They had to develop a whole examination procedural manual. Yeah. Because we've never examined anything like that. They hired an outside consultant to develop theirs, because that was really the only way, they could do it in a safe and sound manner and a responsible regulatory manner. they said they would lend us their manual that they develop, but we'd have to pay for it. because they spent a lot of money on it. License, license us for the, yeah. They said they would license it to us. I think <laugh> but we didn't really go down that road with them too much. So, he actually recommended asking for more than what we recommended so, or what we ended up asking.

Q: So, the 64,000 other question, are they bringing in enough money to pay it for their banking department?

A: I believe so. I, I would have to look into that a little bit more. I, things are a little bit busy at the banking department right now, So, I can't quite bring that piece of it to mind. but I know they, I believe the last time I spoke with them, they have four of these special depository entities. Right. I think

Ammon: That's HB1504.

Hunt:

Q: Yeah. I mean the end of the day is because the way we, our banking department, we have fees. Right. And we have fees for when we come to do our investigation. Right. But at the end of the day, if it doesn't meet what the cost of the department is, we have an assessment system to go back and correct and collect some more money. So, it, the, the question, I guess, you know, I, are they, are they breaking even? Are they, you know, are they breaking even over there because we certainly wouldn't want to get into it and have this huge bill for the state and not get the revenue?

A: Yeah. I think that would be a question. So, jumping to 1504, I wasn't, you know, I have a whole spiel I can do about that too. but there, the way Wyoming is funded is very different than the way we are funded at the banking department, I believe. And I believe that this what's contemplated here is different than our funding model.

Hunt: They're not self-funded. They're probably general funded?

A: I don't want to say. I can look it up. It's just different.

Rep Herbert

Q: My question actually, comes to me because of the discussion and it's a very basic question and maybe there's somebody here that can answer it for me better than then. You can. I, I don't, I'm not worried about the fees because Bitcoin is just stick question financial money. But my question is when somebody writes a check, in Bitcoin and it goes to a bank and it goes vendor maybe, or the recipient and it gets turned into dollars. I'm, I'm unclear as to exactly how that's going on. I mean, right now, as we sit here today, it sounds to me as though it's not an issue. In other words, you can, you can order something in Bitcoin, and it'll go to wherever your bank is in. The bank will automatically, uh, turn it into dollars. And so, the therefore the, right. The, I, I, if I'm getting it right, it's, I find it very upsetting that we're actually doing this, but this means that, there is no issue, in terms of doing business, whatever your business is, and wherever your business is, it could be, you know, Puerto Rico or, China for that, man. Well, you can't do it out of China because they, they put the kibosh on Bitcoin. They say they weren't going to play. But then it's all, it's all very, fluid in and in as practical matter, we are already using, Bitcoin as our currency.

Hunt: That's your question?

Herbert: That is my question. And I'm still not clear about the mechanics of it, but uh, you know, I thought it was not legal. And so, obviously at some point it became very legal for you to say here's my Bitcoin account and you can there's my dollar account and they can be, we will gladly make the transition mm-hmm <affirmative> So, if that's the case, have we already adopted a second currency?

Galdieri:

A: So, I think the, the easiest way for me to answer your question is to say that there are currently, we currently licensed money transmitters who, we'll take, this is very oversimplified. I apologize to all the Bitcoin enthusiasts who I maybe oversimplifying this for. So, we currently license money transmitters who will take your Bitcoin and give somebody else money like dollar Fiat currency. So, we only regulate it when there is a third party for, in terms of money transmitters. If you wanted to give your Bitcoin to, chairman hunt, you could do that with no, like I wouldn't need to, nobody would know nobody would need to be involved. it's a completely separate thing much. Like if you gave him cash, nobody would need to be involved in that. So, we currently regulate entities that take Bitcoin, give, give out currency Fiat currency. We do not regulate companies that take Bitcoin and only give Bitcoin, correct. That was specifically exempted in 2017. You may remember. We went through, that and developed a specific exemption from our money transmitter laws for folks who do money transmission of CRI like the third party with just the crypto on either side.

Herbert: Now the, the third party, in the first transaction is not a bank. It's somebody who has access to Bitcoin and has agreed to, send out those dollars. It has access to, but that's not a bank if somebody's got a, a business, for all right. I'm not sure. I I've never heard of these organizations.

Hunt: Well, they did the money transfer business. So, everybody used to think of Western union. Yep. Okay. Or Coinbase and Coinbase mm-hmm <affirmative> and they're in the business. They're in there. They're doing it. Yep. By the us base. But, but I, I found that the, that the easiest way to transfer money to somebody is to go to onto my local Walmart and transfer it to the Walmart that they're near to them. But that's cash only. That's not Bitcoin. I don't believe Walmart is doing Bitcoin.

Galdieri: I think Walmart would be, is licensed by us though.

Hunt: That's, they are to do that third party time. There's like the, the license is just a registration. And So, that if there was a consumer complaint, we would know who follow and we examined them. So, these third parties already exist. Who regulates them? We do. Yep. They're we regulate, but they're not a bank.

Galdieri: Correct. We regulate, consumer credit division licensees. In addition to banks, credit unions, trust companies. Then in consumer credit division, we regulate money transmitters, small loan lenders, mortgage bankers, and brokers. I'm missing one. Sorry. Yes. but money transmitters would be the type of entity that you're talking about.

Rep McAleer

Q: Thank you for being here in the beginning of your presentation, you mentioned some of the places where you thought that this, existing, law was not adequate, whether you should change this and that. Do you have a, maybe a outline of an amendment that would cover your, your concerns that we could take a look at? Or do you have in writing that we could look at of what you, just said?

A: I don't have anything in writing right. At the moment I could develop something. It would be pretty extensive though for the two bills that 1502 and 1504. I I'm sorry, I I'm sorry. Can you hear me, okay? Yeah. So, I don't have anything in writing right now. but I, we are, we C we have done the analysis and gone essentially line by line, on 1502 and 1504 to figure out what would need to change.

Q: So, we could get that?

A: Absolutely.

Rep Abel

Q: Under, house bill 1502. what would be the, what would be the RSA or the, the division of the banking department that would, would control regulating this kind of an endeavor?

A: So, we currently as contemplated by the fiscal note, we don't, if you're talking about the three bills, kind of working together to create a new regulatory regime, we do not currently have a division that could absorb this type of work. That's why we put in the fiscal note that we would basically need to establish a new division, create all the training, get the exam program up and running. It would be quite the endeavor because we don't have a place to put this right now.

Christy Merrill (and Ryan Hale), NH Bankers Association

Good afternoon. chairman hunt and honorable members of the house commerce and consumer affairs committee. my name is Christie Merrill and I'm president of the Hampshire banker's association. and with me today is also Ryan Hale, VP government relations for the New Hampshire bankers. we represent 38 member banks, which employ nearly 6,000 employees. And we are here today to provide testimony, opposing house bill 1502. we understand what it is that the sponsor is trying to do, and that we're very appreciative of that. you know, in a world that is becoming more reliant on digital transactions. This is an area that our members are very interested in and we think they would benefit from additional regulation. our major concerns with the legislation are really because it amends the uniform commercial code. I know that's been talked about a little bit, and specifically article nine, outside of the uniform law commission, and in doing So, we believe it undermines the uniformity that is really central to the uniform commercial code, the uniform law commission. And I

apologize if you're already aware, but for those who not, they have a long history of working to ensure commercial transactions are treated with uniformity among the various states. the uniform law commission has been working over the past couple years, specifically to address emerging technologies, including how digital assets are treated to ensure the laws governing. These assets are reliable and predictable across jurisdictions. They have, a working group currently with over 20 members. They each represent various states to create a new article 12 to address this. They have told us; they're expecting to wrap up their work later this year. And they've released an initial draft, which is grounded in their expertise in this complicated and evolving area. I've included along with my testimony, a memo from the U L C that outlines the work they're doing. and **they also very specifically address the concerns with household 1502. And I can in no way say, explain it better than they do.** So, I would encourage you to take a look at that. We also have other information for you about, the uniform law commission. The UCC has been adopted in uniformity in nearly every state. And it's incredibly important to the business of banking by providing clarity around the different types of transactions and services offered by banks. And that also includes commercial lending. It defines how security interests can be granted, perfected, and transferred in property for lenders article nine, identifies and differentiates types of collateral and provides a definition for the different types of assets and making changes. outside of that, well, vetted process on an ad hoc basis is we'll create confusion. and we're concerned it has the potential to invite cross jurisdiction litigation due to the inconsistencies in the different states. So, we are of the opinion, that the changes to the UCC should not out, not, should not occur outside of the framework that they've established, to us, the, the ULC is vitally important by providing clear and consistent rules and procedures across the country to ensure uniformity across all 50 states. But at the same time, they look at each state's unique environment. They have commissioners from every state that have a voice in the process, and that includes New Hampshire. I think we've included this for you, but over the years, going back to 1909 new H or has adopted 102 of their uniform acts. and so, we've got that information for you again, we appreciate what it is that the sponsor is trying to do. but we would **ask that the committee hold off on passing this bill and wait for the ULC to complete their work**, which is coming as we've said. And we would ask for you all to vote in interim study or inexpedient to legislate. And with that, we will attempt to answer any questions you may have.

Rep Herbert

Q: I've heard, I've heard today, some information as to, how the, uh, Bitcoin goes into dollars and dollars go back into Bitcoin, which I wasn't, clear about. I'm just concerned, and I'll repeat this until I get an answer that satisfies me. I I'm concerned about the ability to launder money. And I heard that there's, there's a two key, deal with, the Bitcoin, which I was unaware of. And I'm not sure exactly what that means, but, but the fact is, uh, I haven't read any huge FrontPage news events of, money launders being arrested and thrown in the penitentiary. So, even though it's a apparently very clear that Bitcoin is more secure, it hasn't occurred yet, in the system. So, what is, do you have any concerns about the ability of Bitcoin to be used in, uh, laundering money from Bitcoin into dollars and back again?

A: thank you for the question representing of, just speaking to, I know you made the comment about nothing sort of nefarious being reported. it's my understanding, there was something that was reported, in the Western part of the state, I believe last year, but, as it relates to Bitcoin and the security around it, I think with all of the, various virtual currencies, and it's, this is difficult to talk about because there's three bills and I know they are kind of interrelated, but, I think the short answer is yes. And I think some of the regulatory schemes that are in place today for banks help provide safeguards against that. And so, what you'll hear from us on the other, on the other bills as well, is that **we're advocating for, similar treatment that banks receive in some aspects banks today are, subject to the rules of FinCEN,** which they specifically look at anti-money laundering and things like that. And so, banks have very specific protocols that they have to follow to avoid anti-money laundering and things like that. So, the short answer is yes. we think that banks have a regulatory scheme in place to address those concerns. And so, that's why we would advocate that, in working with virtual and digital currencies, that they also be subject to some of these, same regulatory, frameworks. So, those protections are added. So, I hope that answers, I don't know if you want to add anything to that, you

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1502-FN Date 1/12/2022

Committee Commerce

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con
Rep Suzanne Smith	Hebron		Grafton 8		X
Rep Joe Alexander			Hills - 6	X	
Lisa Tagg	7 Church St Dover		Self	✓	
Rep. Mark Warden				X	

House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill HB1502 on 2022

Support: 2 Oppose: 28 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane
Trought, Elizabeth	Dorchester, NH batrought@gmail.com	A Member of the Public	Myself	Oppose	No	No
Blaine, Marcia	Plymouth, NH Marcia.s.blaine@gmail.com	A Member of the Public	Myself	Oppose	No	No
Widerstrom, Sally	Plymouth, NH sallyswid@gmail.com	A Member of the Public	Myself	Oppose	No	No
Townsend, Charles	Canaan, NH chucktownsend@me.com	A Member of the Public	Myself	Oppose	No	No
Osborne, Stephanie	Campton, NH Osbornestephanie@me.com	A Member of the Public	Myself	Oppose	No	No
Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Oppose	No	No
Weston, Joyce	Plymouth, NH jweston14@roadrunner.com	An Elected Official	Myself	Oppose	No	No
Richards, Martha	Holderness, NH Maplerichards@gmail.com	A Member of the Public	Myself	Oppose	No	No
Hunnewell, Richard	Holderness, NH hunnewell.richard@gmail.com	A Member of the Public	Myself	Oppose	No	No
Hunnewell, Anne	Holderness, NH ahunne@roadrunner.com	A Member of the Public	Myself	Oppose	No	No
Burr, Emily	Canterbury, NH revemilyburr@gmail.com	A Member of the Public	Myself	Oppose	No	No
Richards, John	Holderness, NH salmon246@gmail.com	A Member of the Public	Myself	Oppose	No	No
Fellows, Sallie	Holderness, NH sallie.fellows@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No
Garnsey, Shannon	Campton, NH Mtnchik76@aol.com	A Member of the Public	Myself	Oppose	No	No
Morrilll, David	Dorchester, NH dmorrill58@myfairpoint.net	A Member of the Public	Myself	Oppose	No	No
Howard, Sherrill	Campton, NH golfmoms@gmail.com	A Member of the Public	Myself	Oppose	No	No
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No
Hakken-Phillips, Mary	Hanover, NH Mhp4nhrep@gmail.com	An Elected Official	Myself	Oppose	No	No
Rich, Cecilia	Somersworth, NH cecilia.rich@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No
Hamer, Heidi	Manchester, NH heidi.hamer@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No
Heath, Mary	Manchester, NH M.heath@comcast.net	An Elected Official	Myself	Oppose	No	No
Bouchard, Donald	MANCHESTER, NH donaldjbouchard@gmail.com	An Elected Official	Myself	Oppose	No	No

Oxenham, Lee	Plainfield, NH leeoxenham@comcast.net	An Elected Official	Myself	Support	No	No
Ahlberg, Ingrid	Newmarket, NH inkynnh@gmail.com	A Member of the Public	Myself	Oppose	No	No
Tucker, Katherine	Wilmot, NH katherine.s.tucker@valley.net	A Member of the Public	Myself	Oppose	No	No
Dontonville, Roger	Enfield, NH rdontonville@gmail.com	An Elected Official	Myself	Oppose	No	No
Merchant, Rep. Gary	Claremont, NH gary.merchant@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No
Chase, Wendy	Rollinsford, NH wendy.chase@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No
Doherty, David	Pembroke, NH ddoherty0845@gmail.com	A Member of the Public	Myself	Oppose	No	No
Bunker, Lisa	Exeter, NH lisabunkernh@gmail.com	An Elected Official	Myself and the town of Exeter	Oppose	No	No

FEDERAL RESERVE SYSTEM

Docket No. OP-1747

Proposed Guidelines for Evaluating Account and Services Requests

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; request for comment

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is requesting comment on proposed guidelines (Account Access Guidelines) to evaluate requests for accounts and services at Federal Reserve Banks (Reserve Banks).

DATES: Comments on the proposed changes must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Docket No. OP-1747, by any of the following methods:

- Agency website: http://www.federalreserve.gov. Follow the instructions for submitting comments at http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.
- Email: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.
- Fax: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's web site at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, unless modified for technical reasons or to remove personally identifiable information at the

commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT:

Jason Hinkle, Assistant Director (202-912-7805), Division of Reserve Bank Operations and Payment Systems, or Sophia Allison, Senior Special Counsel (202-452-3565) or Gavin Smith, Senior Counsel (202-872-7578), Legal Division, Board of Governors of the Federal Reserve System. For users of Telecommunications Device for the Deaf (TDD) only, please contact 202-263-4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Board of Governors of the Federal Reserve System (Board) is considering adopting guidelines (Account Access Guidelines) to be used by Federal Reserve Banks (Reserve Banks) in evaluating requests for master accounts and/or access to Federal Reserve Bank financial services (accounts and services). The Board's approach to this proposal reflects its analysis of the Board's policy goals of (1) ensuring the safety and soundness of the banking system, (2) effectively implementing monetary policy, (3) promoting financial stability, (4) protecting consumers, and (5) promoting a safe, efficient, inclusive, and innovative payment system. The Board's proposed guidelines are also intended to ensure that Reserve Banks evaluate a transparent and consistent set of factors when reviewing requests for accounts and services (access requests).

The payments landscape is evolving rapidly as technological progress and other factors are leading to both the introduction of new financial products and services and to different ways of providing traditional banking services (i.e., payments, deposit-taking, and lending). Relatedly, there has been a recent uptick in novel charter types being authorized or considered across the country and, as a result, the Reserve Banks are receiving an increasing number of inquiries and requests for access to accounts and services from novel institutions.

Although the Reserve Banks have received such inquiries on an exceptional basis in the past, the Board now believes, given the increase in the number and novelty of such inquiries, that a more transparent and consistent approach to such requests should be adopted by the Reserve Banks. Given that access decisions made by individual Reserve Banks can have implications for a wide array of Federal Reserve System (Federal Reserve) policies and objectives, a structured, transparent, and detailed framework for evaluating access requests would benefit the financial system broadly. Such a framework would also help foster consistent evaluation of access requests, from both risk and policy perspectives, across all twelve Reserve Banks.

To help achieve the goal of applying a transparent and consistent process for all access requests, the Board is proposing guidelines for the Reserve Banks to evaluate such requests. The proposed account access guidelines contain six principles that would support consistency in approach and decision-making across Reserve Banks while maintaining Reserve Bank discretionary authority to grant or deny requests. Accordingly, the proposed guidelines would reduce the potential for forum shopping

across Reserve Banks and mitigate the risk that individual decisions by Reserve Banks could create de facto System policy for a particular business model or risk profile. These risk-focused guidelines would also promote more consistent implementation for eligible institutions with similar risk profiles.

The proposed account access guidelines are centered on a foundation of risk management and mitigation. In developing the proposed guidelines, the Board considered the risks that may arise when an institution gains access to accounts and services. These risks include, among others, risks to the Reserve Banks, to the payment system, to the financial system, and to the effective implementation of monetary policy.

The introduction to the proposed guidelines discusses the Federal Reserve's broad policy goals when providing accounts and services as well as the reasons for proposing to issue the account access guidelines. In addition, the introduction provides that while the guidelines are designed primarily for new access requests, Reserve Banks should also apply the guidelines to existing account and services relationships when a Reserve Bank becomes aware of a significant change in the risks that the account holder presents due to changes in the nature of its principal business activities, condition, etc.

The proposed account access guidelines identify potential risks and prompt the Reserve Bank to identify risk mitigation strategies adopted by the institution (including capital, risk frameworks, compliance with regulations, and supervision) and by the Reserve Bank (including account agreement provisions, restrictions on financial services accessed, account risk controls, and denial of access requests). The first principle specifies that only institutions that are legally eligible for accounts and services are in

scope, and the remaining five principles are designed to address specific risks ranging from narrow risks (such as risk to an individual Reserve Bank) to broader risks (such as risk to the U.S. financial system).[1] The Board is considering whether it may in the future be useful to clarify the interpretation of legal eligibility under the Federal Reserve Act for a Federal Reserve account and services.

For each of these principles, the proposed guidelines identify factors that Reserve Banks should consider when evaluating an institution against the specific risk targeted by the pringciple (several factors are pertinent to more than one principle). The identified factors are commonly used in the regulation and supervision of federally-insured institutions. When applying the account access guidelines the Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile. Given that the proposed guidelines utilize factors broadly applied to federally-insured institutions, the Board anticipates the application of the guidelines to access requests by federally-insured institutions would be fairly straightforward in most cases. Reserve Bank assessments of access requests from non-federally-insured institutions , however, may require more extensive due diligence.

Currently, Reserve Bank risk management practices include monitoring the condition of institutions with accounts and services on an ongoing basis using

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[1] The proposed guidelines are designed as a risk management framework and, as such, the principles focus on risks an institution's access could pose. The Board notes, however, that an institution's access could have net benefits to the financial system that are not a focus of the risk management framework.

supervisory ratings, capitalization data, and other supplementary information. Reserve Banks use this process to determine whether risk controls or other restrictions should be placed on an institution's account. For example, the process is used to determine if an institution continues to remain eligible for primary credit. The Board anticipates that, if the proposed guidelines are adopted, Reserve Banks would use the guidelines to re-evaluate the risks posed by an institution in cases where these condition-monitoring activities indicate potential changes in the institution's risk profile.

II. II. Proposed Guidelines

Guidelines Covering Access to Accounts and Services at Federal Reserve Banks (Account Access Guidelines)

The Board of Governors of the Federal Reserve System (Board) has adopted account access guidelines comprised of six principles to be used by Federal Reserve Banks (Reserve Banks) in evaluating requests for master accounts and access to Federal Reserve Bank financial services (access requests).[2,3] The account access guidelines apply

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[2] As discussed in the Federal Reserve's Operating Circular No. 1, an institution has the option to settle its Federal Reserve financial services transactions in its master account with a Reserve Bank or in the master account of another institution that has agreed to act as its correspondent. These principles apply to requests for either arrangement.

[3] Reserve Bank financial services mean all services subject to Federal Reserve Act, section 11A ("priced services") and Reserve Bank cash services. Financial services do not include transactions conducted as part of the Federal Reserve's open market operations or administration of the Reserve Banks' Discount Window.

to requests from all institutions that are legally eligible to receive an account or services, as discussed in more detail in the first principle.[4]

The Federal Reserve System's (Federal Reserve) approach to providing institutions with accounts and services depends on, among other things, whether the institution is legally eligible to obtain an account and on the Federal Reserve's policy goals of ensuring the safety and soundness of the banking system, effectively implementing monetary policy, promoting financial stability, protecting consumers, and promoting a safe, effective, efficient, accessible and innovative payment system. The Board believes it is important to make clear that legal eligibility does not bestow a right to obtain an account and services. While decisions regarding individual access requests remain at the discretion of the individual Reserve Banks, the Board believes it is important that the Reserve Banks apply a consistent set of guidelines when reviewing such access requests to promote consistent outcomes across Reserve Banks and to facilitate equitable treatment across institutions.

These account access guidelines also serve to inform requestors of the factors that a Reserve Bank will review in any access request and thereby allow requestors to make any enhancements to its risk management, documentation, or other practices, as the case may be, to attempt to demonstrate how it meets each of these factors for review.

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[4] These principles would not apply to accounts provided under fiscal agency authority or to accounts authorized pursuant to the Board's Regulation N (12 CFR 214), joint account requests, or account requests from designated financial market utilities, since existing rules or policies already set out the considerations involved in granting these types of accounts.

These guidelines broadly outline considerations for evaluating access requests but are not intended to provide assurance that any specific institution will be granted an account and services. The individual Reserve Bank will evaluate each access request on a case-by-case basis. When applying these account access guidelines, the Reserve Bank should incorporate to the extent possible the assessments of an institution by state and/or federal supervisors into its independent analysis of the institution's risk profile. The evaluation of an institution's access request should also consider whether the request has the potential to set a precedent that could affect the Federal Reserve's ability to achieve its policy goals now or in the future.

If the Reserve Bank decides to grant an access request, it may impose (at the time of account opening, granting access to service, or any time thereafter) obligations relating to, or conditions or limitations on, use of the account or services as necessary to limit operational, credit, legal, or other risks posed to the Reserve Banks, the payment system, financial stability or the implementation of monetary policy or to address other considerations.[5] The account-holding Reserve Bank may, at its discretion, decide to place additional risk management controls on the account and services, such as real-time monitoring of account balances, as it may deem necessary to mitigate risks. If the obligations, limitations, or controls are ineffective in mitigating the risks identified or if the obligations, limitations, or controls are breached, the account-holding Reserve Bank

[5] The conditions imposed could include, but are not limited to, paying a different rate of interest on balances held in the account, limiting the amount of balances on which interest is paid, or establishing a cap on the amount of balances held in the account.

may further restrict the institution's use of accounts and services or may close the account. Establishment of an account and provision of services by a Reserve Bank under these guidelines is not an endorsement or approval by the Federal Reserve of the institution. Nothing in the Board's guidelines relieves any institution from compliance with obligations imposed by the institution's supervisors and regulators.

Accordingly, Reserve Banks should evaluate how each institution requesting an account and services will meet the following principles.[6] Each principle identifies factors that Reserve Banks should consider when evaluating an institution against the specific risk targeted by the principle (several factors are pertinent to more than one principle). The identified factors are commonly used in the regulation and supervision of federally-insured institutions. As a result, the Board anticipates the application of the account access guidelines to access requests by federally-insured institutions will be fairly straightforward in most cases. However, Reserve Bank assessments of access requests from non-federally insured institutions may require more extensive due diligence.

Reserve Banks monitor and analyze the condition of institutions with accounts and services on an ongoing basis. Reserve Banks should use the guidelines to re-evaluate the risks posed by an institution in cases where its condition monitoring and analysis indicate

[6] The principles are designed to address risks posed by an institution having access to an account and services, ranging from narrow risks (e.g., to an individual Reserve Bank) to broader risks (e.g., to the overall economy). Review activities performed by the Reserve Bank may address several principles at once.

potential changes in the risk profile of an institution, including a significant change to the institution's business model.

1. Each institution requesting an account or services must be eligible under the Federal Reserve Act or other federal statute to maintain an account at a Federal Reserve Bank (Reserve Bank) and receive Federal Reserve services and should have a well-founded, clear, transparent, and enforceable legal basis for its operations.[7]

a. Unless otherwise specified by federal statute, only those entities that are member banks or meet the definition of a depository institution under section 19(b) of the Federal Reserve Act are legally eligible to obtain Federal Reserve accounts and financial services.[8]

b. The Reserve Bank should assess the consistency of the institution's activities and services with applicable laws and regulations, such as Article 4A of the Uniform Commercial Code and the Electronic Fund Transfer Act. The Reserve Bank should also consider whether the design of the institution's services would impede compliance by the institution's customers with U.S. sanction programs, Bank Secrecy Act (BSA) and

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[7] These principles do not apply to accounts provided by a Reserve Bank as depository and fiscal agent for the Treasury and for certain government-sponsored entities (12 U.S.C. 391, 393-95, 1823, 1435) as well as to accounts provided to certain international organizations (22 U.S.C. sections 285d, 286d, 290o-3, 290i-5, 290l-3), to designated financial market utilities (12 U.S.C. 5465), pursuant to the Board's Regulation N (12 CFR 214), or to the Board's Guidelines for Evaluating Joint Account Requests.

[8] These principles apply to account requests from member banks or other entities that meet the definition of a depository institution under section 19(b), as well as Edge and Agreement corporations (12 U.S.C. 601-604a, 611-631), and branches and agencies of foreign banks (12 U.S.C. 347d).

anti-money-laundering (AML) requirements or regulations, or consumer protection laws and regulations.

2. Provision of an account and services to an institution should not present or create undue credit, operational, settlement, cyber or other risks to the Reserve Bank.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements to ensure that the institution operates in a safe and sound manner, during both normal conditions and periods of idiosyncratic and market stress.

i. For these purposes, effective risk management includes having a robust framework, including policies, procedures, systems, and qualified staff, to manage applicable risks. The framework should at a minimum identify, measure, and control the particular risks posed by the institution's business lines, products and services. The effectiveness of the framework should be further supported by internal testing and internal audit reviews.

ii. The framework should be subject to oversight by a board of directors (or similar body) as well as oversight by state and/or federal banking supervisor(s).

iii. The framework should clearly identify all risks that may arise related to the institution's business (e.g., legal, credit, liquidity, operational, custody, investment) as well as objectives regarding the risk tolerances for the management of such risks.

c. The Reserve Bank should confirm that the institution is in substantial compliance with its supervisory agency's regulatory and supervisory requirements.

d. The institution must, in the Reserve Bank's judgment:

i. Demonstrate an ability to comply, were it to obtain a master account, with Board orders and policies, Reserve Bank agreements and operating circulars, and other applicable Federal Reserve requirements.

ii. Be in sound financial condition, including maintaining adequate capital to continue as a going concern and to meet its current and projected operating expenses under a range of scenarios.

iii. Demonstrate the ability, on an ongoing basis (including during periods of idiosyncratic or market stress), to meet all of its obligations in order to remain a going concern and comply with its agreement for a Reserve Bank account and services, including by maintaining:

A. Sufficient liquid resources to meet its obligations to the Reserve Bank under applicable agreements, operating circulars, and Board policies;

B. The operational capacity to ensure that such liquid resources are available to satisfy all such obligations to the Reserve Bank on a timely basis; and

C. Settlement processes designed to appropriately monitor balances in its Reserve Bank account on an intraday basis, to process transactions through its account in an orderly manner and maintain/achieve a positive account balance before the end of the business day.

iv. Have in place an operational risk framework designed to ensure operational resiliency against events associated with processes, people, and systems that may impair the institution's use and settlement of Reserve Bank services. This framework should consider internal and external factors, including operational risks inherent in the institution's business model, risks that might arise in connection with its use of any Reserve Bank account and services, and cyber-related risks. At a minimum, the operational risk framework should:

A. Identify the range of operational risks presented by the institution's business model (e.g., cyber vulnerability, operational failure, resiliency of service providers), and establish sound operational risk management objectives to address such risks;

B. Establish sound governance arrangements, rules, and procedures to oversee and implement the operational risk management framework;

C. Establish clear and appropriate rules and procedures to carry out the risk management objectives;

D. Employ the resources necessary to achieve its risk management objectives and implement effectively its rules and procedures, including, but not limited to, sound processes for physical and information security, internal controls, compliance, program management, incident management, business continuity, audit, and well-qualified personnel; and

E. Support compliance with the electronic access requirements, including security measures, outlined in the Reserve Banks' Operating Circular 5 and its supporting documentation.

3. Provision of an account and services to an institution should not present or create undue credit, liquidity, operational, settlement, cyber or other risks to the overall payment system.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements to limit the impact that idiosyncratic stress, disruptions, outages, cyber incidents or other incidents at the institution might have on other institutions and the payment system broadly. The framework should include:

i. Clearly defined operational reliability objectives and policies and procedures in place to achieve those objectives.

ii. A business continuity plan that addresses events that have the potential to disrupt operations and a resiliency objective to ensure the institution can resume services in a reasonable timeframe.

iii. Policies and procedures for identifying risks that external parties may pose to sound operations, including interdependencies with affiliates, service providers, and others.

c. The Reserve Bank should identify actual and potential interactions between the institution's use of a Reserve Bank account and services and (other parts of) the payment system.

i. The extent to which the institution's use of a Reserve Bank account and services might restrict funds from being available to support the liquidity needs of other institutions should also be considered.

d. The institution must, in the Reserve Bank's judgment:

i. Be in sound financial condition, including maintaining adequate capital to continue as a going concern and to meet its current and projected operating expenses under a range of scenarios.

ii. Demonstrate the ability, on an ongoing basis (including during periods of idiosyncratic or market stress), to meet all of its obligations in order to remain a going concern and comply with its agreement for a Reserve Bank account and services, including by maintaining:

A. Sufficient liquid resources to meet its obligations to the Reserve Bank under applicable agreements, Operating Circulars, and Board policies;

B. The operational capacity to ensure that such liquid resources are available to satisfy all such obligations to the Reserve Bank on a timely basis; and

C. Settlement processes designed to appropriately monitor balances in its Reserve Bank account on an intraday basis, to process transactions through its account in an orderly manner and maintain/achieve a positive account balance before the end of the business day.

iii. Have in place an operational risk framework designed to ensure operational resiliency against events associated with processes, people, and systems that may impair the institution's payment system activities. This framework should consider internal and

external factors, including operational risk inherent in the institution's business model, risk that might arise in connection with its use of the payment system, and cyber-related risks. At a minimum, the framework should:

A. Identify the range of operational risks presented by the institution's business model (e.g., cyber vulnerability, operational failure, resiliency of service providers), and establish sound operational risk-management objectives;

B. Establish sound governance arrangements, rules, and procedures to oversee the operational risk management framework;

C. Establish clear and appropriate rules and procedures to carry out the risk management objectives;

D. Employ the resources necessary to achieve its risk management objectives and implement effectively its rules and procedures, including, but not limited to, sound processes for physical and information security, internal controls, compliance, program management, incident management, business continuity, audit, and well-qualified personnel.

4. Provision of an account and services to an institution should not create undue risk to the stability of the U.S. financial system.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should determine, in coordination with the other Reserve Banks and Board, whether the access to an account and services by an institution itself or a

group of like institutions could introduce financial stability risk to the U.S. financial system.

c. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements for managing liquidity, credit, and other risks that may arise in times of financial or economic stress.

d. The Reserve Bank should consider the extent to which, especially in times of financial or economic stress, liquidity or other strains at the institution may be transmitted to other segments of the financial system.

e. The Reserve Bank should consider the extent to which, especially during times of financial or economic stress, access to an account and services by an institution itself (or a group of like institutions) could affect deposit balances across U.S. financial institutions more broadly and whether any resulting movements in deposit balances could have a deleterious effect on U.S. financial stability.

i. Balances held in Reserve Bank accounts are high-quality liquid assets, making them very attractive in times of financial or economic stress. For example, in times of stress, investors that would otherwise provide short-term funding to nonfinancial firms, financial firms, and state and local governments could rapidly withdraw that funding and instead deposit their funds with an institution holding mostly central bank balances. If the institution is not subject to capital requirements similar to a federally-insured institution, the potential for sudden and significant deposit inflows into that institution is particularly large, which could disintermediate other parts of the financial system, greatly amplifying stress.

5. Provision of an account and services to an institution should not create undue risk to the overall economy by facilitating activities such as money laundering, terrorism financing, fraud, cybercrimes, or other illicit activity.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has an anti-money-laundering program consistent with the requirements in 31 CFR 1020.210(b) and complies with the Office of Foreign Asset Control (OFAC) regulations at 31 CFR Chapter V.

i. For these purposes, the Reserve Bank should confirm that these compliance programs contain the following elements:

A. A system of internal controls, including policies and procedures, to ensure ongoing BSA/AML and OFAC compliance, including regular written risk assessments to identify, analyze and address the risks the institution faces, policies, procedures, and an effective transaction-monitoring system;

B. Independent audit and testing of BSA/AML and OFAC compliance;

C. Senior management commitment to BSA/AML and OFAC compliance, including, at a minimum: (a) the designation of a specific person or persons responsible for managing BSA/AML and OFAC compliance, including the employment of an experienced BSA/AML and OFAC compliance officer; (b) senior management review and approval of the institution's BSA/AML and OFAC compliance programs; (c) the institution's compliance staff has sufficient authority and autonomy to deploy policies

and procedures in a manner that effectively controls the institution's BSA/AML and OFAC risk; and (d) senior management taking, and demonstrating that it will continue to take, steps to ensure that the institution's compliance unit receives adequate resources;

D. Ongoing training for appropriate personnel with a scope that is appropriate for the products and services the institution offers; and

E. Processes that allow for a risk-based classification of its customer base, including risk-based procedures for conducting ongoing customer due diligence.

6. Provision of an account and services to an institution should not adversely affect the Federal Reserve's ability to implement monetary policy.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should determine, in coordination with the other Reserve Banks and the Board, whether access to an account and services by an institution itself or a group of like institutions could have an effect on the implementation of monetary policy.

c. The Reserve Bank should consider, among other things, whether access to a Reserve Bank account and services by the institution could affect the level and variability of the demand for and supply of reserves, the level and volatility of key policy interest rates, the structure of key short-term funding markets, and on the overall size of the consolidated balance sheet of the Reserve Banks. The Reserve Bank should consider the implications of providing an account to the institution in normal times as well as in times

of stress. This consideration should occur regardless of the current monetary policy implementation framework in place.

III. Request for Comment

The Board requests comment on all aspects of the proposed account access guidelines, including: (1) whether the scope and application of the proposed guidance are sufficiently clear and appropriate to achieve their intended purpose; and (2) suggesting/identifying other criteria or information that commenters believe may be relevant to evaluate accounts and services requests under the proposed guidance. The Board further seeks comment specifically on the following aspects of the proposed guidance:

1. Do the proposed account access guidelines address all the risks that would be relevant to the Federal Reserve's policy goals?
2. Does the level of specificity in each principle provide sufficient clarity and transparency about how the Reserve Banks will evaluate requests?
3. Do the proposed account access guidelines support responsible financial innovation?

Finally, the Board also seeks comment on whether the Board or the Reserve Banks should consider other steps or actions to facilitate the review of requests for accounts and services in a consistent and equitable manner.

By order of the Board of Governors of the Federal Reserve System.

Ann Misback,
Secretary of the Board

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency

November 23, 2021

Joint Statement on Crypto-Asset Policy Sprint Initiative and Next Steps

The Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation and Office of the Comptroller of the Currency (collectively, agencies) recognize that the emerging crypto-asset sector presents potential opportunities and risks for banking organizations, their customers, and the overall financial system.[1] As supervised institutions seek to engage in crypto-asset-related activities, it is important that the agencies provide coordinated and timely clarity where appropriate to promote safety and soundness, consumer protection, and compliance with applicable laws and regulations, including anti-money laundering and illicit finance statutes and rules.

To that end, the agencies recently conducted a series of interagency "policy sprints" focused on crypto-assets. Similar to a "tech sprint" model, agency staff with various backgrounds and relevant subject matter expertise conducted preliminary analysis on various issues regarding crypto-assets. This joint statement summarizes the work undertaken during the policy sprints and provides a roadmap of future planned work.

Agency staff focused on quickly advancing and building on the agencies' combined knowledge and understanding related to banking organizations' potential involvement in crypto-asset-related activities. The focus of the sprint work included:

- Developing a commonly understood vocabulary using consistent terms regarding the use of crypto-assets by banking organizations.
- Identifying and assessing key risks, including those related to safety and soundness, consumer protection, and compliance, and considering legal permissibility related to potential crypto-asset activities conducted by banking organizations.[2]
- Analyzing the applicability of existing regulations and guidance and identifying areas that may benefit from additional clarification.

To place the sprint work in context, staff reviewed and analyzed a number of crypto-asset activities in which banking organizations may be interested in engaging including:

- Crypto-asset custody.
- Facilitation of customer purchases and sales of crypto-assets.
- Loans collateralized by crypto-assets.
- Activities involving payments, including stablecoins.

[1] By "crypto-asset," the agencies refer generally to any digital asset implemented using cryptographic techniques.
[2] To assist in identifying key risks, agency staff reviewed comment letters submitted in response to the FDIC's Request for Information on Digital Assets.

- Activities that may result in the holding of crypto-assets on a banking organization's balance sheet.

Based on this preliminary and foundational staff-level work, the agencies have identified a number of areas where additional public clarity is warranted. As a result, the agencies have developed a crypto-asset roadmap that is summarized below.

Throughout 2022, the agencies plan to provide greater clarity on whether certain activities related to crypto-assets conducted by banking organizations are legally permissible, and expectations for safety and soundness, consumer protection, and compliance with existing laws and regulations related to:

- Crypto-asset safekeeping and traditional custody services.[3]
- Ancillary custody services.[4]
- Facilitation of customer purchases and sales of crypto-assets.
- Loans collateralized by crypto-assets.
- Issuance and distribution of stablecoins.
- Activities involving the holding of crypto-assets on balance sheet.

The agencies also will evaluate the application of bank capital and liquidity standards to crypto-assets for activities involving U.S. banking organizations and will continue to engage with the Basel Committee on Banking Supervision on its consultative process in this area.

The agencies continue to monitor developments in crypto-assets and may address other issues as the market evolves. Further, the agencies will continue to engage and collaborate with other relevant authorities, as appropriate, on issues arising from activities involving crypto-assets.

[3] Traditional custody services in this context include facilitating the customer's exchange of crypto-assets and fiat currency, transaction settlement, trade execution, recordkeeping, valuation, tax services, and reporting.

[4] Ancillary custody services could potentially include staking, facilitating crypto-asset lending, and distributed ledger technology governance services. The agencies may seek additional information on these activities through a request for information, prior to providing any further clarity on these activities.

Archived: Thursday, May 19, 2022 12:44:33 PM
From: Ryan Hale
Sent: Thursday, January 27, 2022 11:36:31 AM
To: ~House Commerce Committee
Cc: Kristy Merrill
Subject: HB 1502 Amendment
Importance: Normal

Good Morning Commerce and Consumer Affairs Members,
Please find attached a slide deck which provides an explanation of the Uniform Law Commission's (ULC) draft amendment to the Uniform Commercial Code (UCC) which is being considered as a replace all amendment for HB 1502, relative to digital assets and digital securities. While we are opposed to HB 1502 as introduced, we are supportive of moving in this direction and adopting the latest UCC amendment. However, we still need to review the OLS amendment once it's available before taking an official position on the bill as amended. Please feel free to contact me with any questions or concerns.
Regards,
Ryan

NH›Bankers
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Archived: Thursday, May 19, 2022 12:44:49 PM
From: Anne Hunnewell
Sent: Sunday, January 9, 2022 11:30:30 AM
To: ~House Commerce Committee
Subject: NH House Remote Testify: 1:15 pm - HB1502 in House Commerce and Consumer Affairs
Importance: Normal

January 9, 2022

Dear Committee Members,

I strongly oppose HB1502.

I am very concerned about digital assets. They are too risky.

Thank you for your consideration.

Yours truly,

Anne Hunnewell

Holderness

HB 1502-FN - AS INTRODUCED

2022 SESSION

22-2783
05/08

HOUSE BILL ***1502-FN***

AN ACT relative to digital assets and digital securities.

SPONSORS: Rep. Ammon, Hills. 40; Rep. Alexander Jr., Hills. 6; Rep. Osborne, Rock. 4; Rep. Warden, Hills. 15; Rep. Edwards, Rock. 4; Rep. Berezhny, Graf. 9; Rep. Baxter, Rock. 20; Rep. White, Merr. 20; Sen. Avard, Dist 12

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill specifies that digital assets are property within the Uniform Commercial Code; authorizes security interests in digital assets, allows banks to provide custodial services for digital asset property and provides procedures for the provision of custodial services.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

22-2783
05/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to digital assets and digital securities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Digital Assets and Digital Securities. Amend RSA by inserting after chapter 397-B the following new chapter:

CHAPTER 397-C

DIGITAL ASSETS AND DIGITAL SECURITIES

397-C:1 Definitions. In this chapter:

I. "Digital asset" means a representation of economic, proprietary or access rights that is stored in a computer readable format, and includes digital consumer assets, digital securities and virtual currency.

II. "Digital consumer asset" means a digital asset that is used or bought primarily for consumptive, personal or household purposes and includes:

(a) An open blockchain token constituting intangible personal property as otherwise provided by law;

(b) Any other digital asset which does not fall within paragraphs III and IV.

III. "Digital security" means a digital asset which constitutes a security, as defined in RSA 382-A:1-201(a)(35), but shall exclude digital consumer assets and virtual currency.

IV. "Virtual currency" means a digital asset that is:

(a) Used as a medium of exchange, unit of account or store of value; and

(b) Not recognized as legal tender by the United States government.

V. The terms in paragraphs II, III, and IV of this section are mutually exclusive.

397-C:2 Classification of Digital Assets as Property; Applicability to Uniform Commercial Code.

I. Digital assets are classified in the following manner:

(a) Digital consumer assets are intangible personal property and shall be considered general intangibles, as defined in RSA 382-A:9-102(a)(44), only for the purposes of article 9 of the Uniform Commercial Code, RSA 382-A;

(b) Digital securities are intangible personal property and shall be considered securities, as defined in RSA 382-A:8-102(a)(15), and investment property, as defined in RSA 382-A:9-102(a)(49), only for the purposes of articles 8 and 9 of the Uniform Commercial Code, RSA 382-A;

(c) Virtual currency is intangible personal property and shall be considered money only for the purposes of article 9 of the Uniform Commercial Code, RSA 382-A.

II. Consistent with RSA 382-A:8-102(a)(9), a digital asset may be treated as a financial asset under that paragraph, pursuant to a written agreement with the owner of the digital asset. If treated as a financial asset, the digital asset shall remain intangible personal property.

III. A bank providing custodial services shall be considered to meet the requirements of RSA 382-A:8-102(a)(9).

IV. Classification of digital assets under this section shall be construed in a manner to give the greatest effect to this chapter, but shall not be construed to apply to any other asset.

397-C:3 Perfection of Security Interests in Digital Assets; Financing Statements.

I. Notwithstanding the financing statement requirement specified by RSA 382-A:9-310 as otherwise applied to general intangibles or any other provision of law, perfection of a security interest in a digital asset may be achieved through control, as defined in subparagraph V(a) of this section. A security interest held by a secured party having control of a digital asset has priority over a security interest held by a secured party that does not have control of the asset.

II. Before a secured party may take control of a digital asset under this section, the secured party shall enter into a control agreement with the debtor. A control agreement may also set forth the terms under which a secured party may pledge its security interest in the digital asset as collateral for another transaction.

III. A secured party may file a financing statement with the secretary of state, including to perfect a security interest in proceeds from a digital asset pursuant to RSA 382-A:9-315.

IV. Notwithstanding any other provision of law, including article 9 of the Uniform Commercial Code, RSA 382-A, a transferee takes a digital asset free of any security interest 2 years after the transferee takes the asset for value and does not have actual notice of an adverse claim. This paragraph only applies to a security interest perfected by a method other than control.

V. As used in this section:

(a) Consistent with paragraph VI, "control" is equivalent to the term "possession" when used in article 9 of RSA 382-A and means the following:

(1) A secured party, or an agent, custodian, fiduciary or trustee of the party, has the exclusive legal authority to conduct a transaction relating to a digital asset, including by means of a private key or the use of a multi-signature arrangement authorized by the secured party;

(2) A smart contract created by a secured party which has the exclusive legal authority to conduct a transaction relating to a digital asset. As used in this subparagraph, "smart contract" means an automated transaction, or any substantially similar analogue, which is comprised of code, script or programming language that executes the terms of an agreement, and which may include taking custody of and transferring an asset, or issuing executable instructions for these actions, based on the occurrence or nonoccurrence of specified conditions.

(b) "Multi-signature arrangement" means a system of access control relating to a digital asset for the purposes of preventing unauthorized transactions relating to the asset, in which 2 or more private keys are required to conduct a transaction, or any substantially similar analogue.

(c) "Private key" means a unique element of cryptographic data, or any substantially similar analogue, which is:

(1) Held by a person;

(2) Paired with a unique, publicly available element of cryptographic data; and

(3) Associated with an algorithm that is necessary to carry out an encryption or decryption required to execute a transaction.

VI. Perfection by control creates a possessory security interest and does not require physical possession. For purposes of article 9 of RSA 382-A and this section, a digital asset is located in New Hampshire if the asset is held by a New Hampshire custodian, the debtor or secured party is physically located in New Hampshire or the debtor or secured party is incorporated or organized in New Hampshire.

397-C:4 Digital Asset Custodial Services.

I. A bank may provide custodial services consistent with this section upon providing 60 days written notice to the commissioner. The provisions of this section are cumulative and not exclusive as an optional framework for enhanced supervision of digital asset custody. If a bank elects to provide custodial services under this section, it shall comply with all provisions of this section.

II. A bank may serve as a qualified custodian, as specified by the United States securities and exchange commission in 17 C.F.R. section 275.206(4)-2. In performing custodial services under this section, a bank shall:

(a) Implement all accounting, account statement, internal control, notice and other standards specified by applicable state or federal law and rules for custodial services;

(b) Maintain information technology best practices relating to digital assets held in custody. The commissioner may specify required best practices by rule;

(c) Fully comply with applicable federal anti-money laundering, customer identification and beneficial ownership requirements; and

(d) Take other actions necessary to carry out this section, which may include exercising fiduciary powers similar to those permitted to national banks and ensuring compliance with federal law governing digital assets classified as commodities.

III. A bank providing custodial services shall enter into an agreement with an independent public accountant to conduct an examination conforming to the requirements of 17 C.F.R. sections 275.206(4)-2(a)(4) and (6), at the cost of the bank. The accountant shall transmit the results of the examination to the commissioner within one hundred 120 days of the examination and may file the results with the United States securities and exchange commission as its rules may provide. Material discrepancies in an examination shall be reported to the commissioner within one day. The

commissioner shall review examination results upon receipt within a reasonable time and during any regular examination conducted by the commissioner.

IV. Digital assets held in custody under this section are not depository liabilities or assets of the bank. A bank, or a subsidiary, may register as an investment adviser, investment company or broker dealer as necessary. A bank shall maintain control over a digital asset while in custody. A customer shall elect, pursuant to a written agreement with the bank, one of the following relationships for each digital asset held in custody:

(a) Custody under a bailment as a nonfungible or fungible asset. Assets held under this paragraph shall be strictly segregated from other assets; or

(b) Custody under a bailment pursuant to paragraph V of this section.

V. If a customer makes an election under subparagraph IV(b), the bank may, based only on customer instructions, undertake transactions with the digital asset. A bank maintains control pursuant to paragraph IV by entering into an agreement with the counterparty to a transaction which contains a time for return of the asset. The bank shall not be liable for any loss suffered with respect to a transaction under this paragraph, except for liability consistent with fiduciary and trust powers as a custodian under this section.

VI. A bank and a customer shall agree in writing regarding the source code version the bank will use for each digital asset, and the treatment of each asset under the Uniform Commercial Code, RSA 382-A. Any ambiguity under this subsection shall be resolved in favor of the customer.

VII. A bank shall provide clear, written notice to each customer, and require written acknowledgment, of the following:

(a) Prior to the implementation of any updates, material source code updates relating to digital assets held in custody, except in emergencies which may include security vulnerabilities;

(b) The heightened risk of loss from transactions under paragraph V;

(c) That some risk of loss as a pro rata creditor exists as the result of custody as a fungible asset or custody under subparagraph IV(b);

(d) That custody under subparagraph IV(b) may not result in the digital assets of the customer being strictly segregated from other customer assets; and

(e) That the bank is not liable for losses suffered under paragraph V, except for liability consistent with fiduciary and trust powers as a custodian under this section.

VIII. A bank and a customer shall agree in writing to a time period within which the bank must return a digital asset held in custody under this section. If a customer makes an election under subparagraph IV(b), the bank and the customer may also agree in writing to the form in which the digital asset shall be returned.

IX. All ancillary or subsidiary proceeds relating to digital assets held in custody under this section shall accrue to the benefit of the customer, except as specified by a written agreement with the customer. The bank may elect not to collect certain ancillary or subsidiary proceeds, as long as

the election is disclosed in writing. A customer who makes an election under subparagraph IV(a) may withdraw the digital asset in a form that permits the collection of the ancillary or subsidiary proceeds.

X. A bank shall not authorize or permit rehypothecation of digital assets under this section. The bank shall not engage in any activity to use or exercise discretionary authority relating to a digital asset except based on customer instructions.

XI. A bank shall not take any action under this section which would likely impair the solvency or the safety and soundness of the bank, as determined by the commissioner after considering the nature of custodial services customary in the banking industry.

XII. To offset the costs of supervision and administration of this section, the commissioner shall charge a bank which provides custodial services under this section a supervision fee equal to two-tenths of one mill on the dollar ($.0002) relating to assets held in custody under this section as of December 31 of each year, with payment of the supervision fee made on or before the following January 31. Banks providing custodial services outside of this section shall not be required to pay this supervision fee.

XIII. The commissioner may adopt rules under RSA 541-A to implement this section.

XIV. In this section:

(a) "Commissioner" means the bank commissioner.

(b) "Custodial services" means the safekeeping and management of customer currency and digital assets through the exercise of fiduciary and trust powers under this section as a custodian, and includes fund administration and the execution of customer instructions.

2 Effective Date. This act shall take effect January 1, 2023.

LBA
22-2783
11/22/21

HB 1502-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to digital assets and digital securities.

FISCAL IMPACT: **[X] State** **[ ] County** **[ ] Local** **[ ] None**

	Estimated Increase / (Decrease)			
STATE:	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	$1,740,000	$872,500	$925,500
Funding Source:	[ ] General [ ] Education [ ] Highway [X] Other - Assessment of Chartered Entities and Examination fees, and Supervision fees.			

METHODOLOGY:

This bill specifies that digital assets are property within the Uniform Commercial Code; authorizes security interests in digital assets, allows banks to provide custodial services for digital asset property and provides procedures for the provision of custodial services.

The Banking Department assumes this bill would be accomplished through the use of Special Purpose Depository Institution Charters. The establishment of Special Purpose Depository Institutions in State law would be also necessary to implement the provisions of this bill. The Banking Department is self-funded. The Banking Department's costs and expenses, including personnel, are paid by fees, fines, and assessments of licensed and chartered entities. The Department assumes in order to charter and regulate Special Purpose Depository Institutions ("SPDI") in a safe and sound manner it would require the development of an SPDI Division within the Department. The Department developed the assumptions and fiscal estimates below based on discussions with Wyoming which currently has an SPDI statute.

- The Department estimates it will need to establish 7 positions and will incur the expenses as shown in table below:

Estimated minimum costs	FY 2022	FY 2023	FY 2024	FY 2025
One Division Director (LG 34)	$ -	$ 125,000	$ 126,000	$ 134,000
Three Bank Examiner IVs (LG 32)	$ -	$ 351,000	$ 351,000	$ 375,000
One IT Examiner (LG32)	$ -	$ 117,000	$ 117,000	$ 125,000
One Attorney IV (LG 32)	$ -	$ 117,000	$ 117,000	$ 125,000
One Program Specialist (LG 19)	$ -	$ 80,000	$ 79,000	$ 84,000

Total Personnel Costs:	$ -	$ 790,000	$ 790,000	$ 843,000
Development of a SPDI-specific examination manual	$ -	$ 850,000	$ -	$ -
Initial and ongoing Training for SPDI Division	$ -	$ 20,000	$ 2,500	$ 2,500
Third-party contract with a suspicious crypto currency transaction alerts and compliance solution company, to assist in the monitoring of SPDIs.	$ -	$ 80,000	$ 80,000	$ 80,000
Total Expenditures:	$ -	$ 1,740,000	$ 872,500	$ 925,500
Note: The costs for the 7 positions include salary, benefits, office space, equipment and general office expenses based on the average Banking Department employee.				

- The Department assumes that it will charge all SPDIs an assessment as it does all state-chartered banks which it examines. The amount of the assessment charged to each SPDI is based on each SPDI's assets proportionally. Therefore, the amount of assessment charged to each SPDI is indeterminable at this time.

- The Banking Department assumes it will be able to bill each SPDI for each examination it conducts under RSA 383:9-d. The Department assumes it would charge the per diem rate per examiner, as set by RSA 383:11. For purposes of this Fiscal Note, the Banking Department used the current per diem rate for period of 40 days, as based upon an average exam length, noting some examinations can extend a long as 50 more days. If problems are discovered during the course of the examination, more time will be required. Based upon the complexity of the SPDI, additional examination staff and time may be required. Based on these assumptions, the cost of an average examination would be $37,773 in FY 2023 and increase annually by about 4% due to inflation.
- Regarding the supervision fees to offset the cost of supervision and administration, the Banking Department indicates the revenue impact is indeterminable and states such a fee is not consistent with the current statutory mechanism for funding the Banking Department in RSA 383:11.

AGENCIES CONTACTED:

Banking Department