

HB 1504-FN - AS INTRODUCED

2022 SESSION

22-2785

07/04

HOUSE BILL ***1504-FN***

AN ACT relative to special purpose depository institutions.

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 establishes a special class of depository institutions, creates regulations pertaining to them, and amends existing law to allow for the special class in the regulatory scheme of banking within the state.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to special purpose depository institutions.

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

1 1 New Chapter; Special Purpose Depository Institutions. Amend RSA by inserting after chapter
2 383-E the following new chapter:

3 CHAPTER 383-F

4 SPECIAL PURPOSE DEPOSITORY INSTITUTIONS

5 383-F:1 Short Title. This chapter shall be known and cited as the "special purpose depository
6 institutions act."

7 383-F:2 Applicability of Other Provisions. If any provision of law conflicts with this chapter,
8 this chapter shall control.

9 383-F:3 Commissioner. The New Hampshire banking commissioner shall have the powers
10 necessary or incidental to performing all of the commissioner's duties under this chapter, including
11 the power to adopt rules as provided in this chapter in accordance with RSA 541-A.

12 383-F:4 Type of Entity; Organization; Authority.

13 I. Consistent with this chapter, special purpose depository institutions shall be organized as
14 corporations under RSA 293-A to exercise the powers set forth in paragraph II of this section.

15 II. Each special purpose depository institution may:

16 (a) Make contracts as a corporation under New Hampshire law;

17 (b) Sue and be sued;

18 (c) Receive notes and buy and sell gold and silver coins and bullion as permitted by
19 federal law;

20 (d) Carry on a non-lending banking business for depositors, consistent with paragraph
21 III of this section;

22 (e) Provide payment services upon the request of a depositor;

23 (f) Make an application to become a member bank of the federal reserve system;

24 (g) Engage in any other activity that is usual or incidental to the business of banking,
25 subject to the prior written approval of the commissioner. The commissioner shall not approve a
26 request to engage in an incidental if the commissioner finds that the requested activity will
27 adversely affect the solvency or the safety and soundness of the special purpose depository
28 institution or conflict with any provision of this chapter;

29 (h) Exercise powers and rights otherwise authorized by law which are not inconsistent
30 with this chapter.

1 III. Except as otherwise provided in this chapter, a special purpose depository institution
2 shall not make loans, including the provision of temporary credit relating to overdrafts.

3 IV. A special purpose depository institution shall maintain its principal operating
4 headquarters and the primary office of its chief executive officer in New Hampshire.

5 V. Except as otherwise authorized by this section, the special purpose depository institution
6 may conduct business with depositors outside this state.

7 VI. Subject to the laws of the host state, a special purpose depository institution may open a
8 branch in another state. A special purpose depository institution, including any branch of the
9 institution, may only accept deposits or provide other services under this chapter to depositors
10 engaged in a bona fide business which is lawful under the laws of New Hampshire, the laws of the
11 host state, and federal law.

12 383-F:5 Requirements Relating to Depositors; Nature of Business.

13 I. No depositor shall maintain an account with a special purpose depository institution or
14 otherwise receive any services from the institution unless the depositor meets the criteria of this
15 section. A depositor shall:

16 (a) Be a legal entity other than a natural person;

17 (b) Be in good standing with the jurisdiction in the United States in which it is
18 incorporated or organized;

19 (c) Maintain deposits with the institution totaling not less than \$5,000;

20 (d) Be engaged in a lawful, bona fide business, consistent with paragraph III of this
21 section and New Hampshire law; and

22 (e) Make sufficient evidence available to the special purpose depository institution to
23 enable compliance with anti-money laundering, customer identification and beneficial ownership
24 requirements, as determined by the institution.

25 II. A depositor which meets the criteria of paragraph I shall be issued a depository account
26 and otherwise receive services from the special purpose depository institution, contingent on the
27 availability of sufficient insurance.

28 III. Consistent with subparagraphs I(d) and I(e), and in addition to any requirements
29 specified by federal law, a special purpose depository institution shall require that a potential
30 depositor provide reasonable evidence that the person is engaged in a lawful, bona fide business, or
31 is likely to open a lawful, bona fide business within the next 6 months. As used in this paragraph,
32 "reasonable evidence" includes business entity filings, articles of incorporation or organization,
33 bylaws, operating agreements, business plans, promotional materials, financing agreements or other
34 evidence.

35 383-F:6 Required Liquid Assets.

36 I. At all times, a special purpose depository institution shall maintain unencumbered liquid
37 assets valued at not less than 100 percent of its depository liabilities.

1 II. As used in this section, "liquid assets" means:

2 (a) United States currency held on the premises of the special purpose depository
3 institution;

4 (b) United States currency held for the special purpose depository institution by a
5 federal reserve bank or a federally insured financial institution;

6 (c) Investments which are highly liquid, including those specified in RSA 383-B:3-
7 303(a)(2).

8 383-F:7 Required Contingency Account

9 I. A special purpose depository institution shall maintain a contingency account to account
10 for unexpected losses and expenses. A special purpose depository institution may require the
11 payment of contributions from depositors to fund a contingency account. Initial capital under RSA
12 383-F:11 shall constitute compliance with this section for the first 3 years a special purpose
13 depository institution is in operation. After the conclusion of the first 3 years of operation, a special
14 purpose depository institution shall maintain a contingency account totaling not less than 2 percent
15 of the depository liabilities of the special purpose depository institution, provided that the
16 contingency account shall be adequate and reasonable in light of current and prospective business
17 conditions, as determined by the commissioner.

18 II. A depositor shall obtain a refund of any contingency account contributions made under
19 paragraph I after closing an account with the special purpose depository institution.

20 383-F:8 Applicable Federal and State Laws. A special purpose depository institution shall
21 comply with all applicable federal laws, including those relating to anti-money laundering, customer
22 identification, and beneficial ownership.

23 383-F:9 Required Disclosures.

24 I. A special purpose depository institution shall display on any internet website it
25 maintains, and at each window or place where it accepts deposits, a sign
26 conspicuously stating that deposits are not insured by the federal deposit insurance corporation, if
27 applicable.

28 II. Upon opening an account and if applicable, a special purpose depository institution shall
29 require each depositor to execute a statement acknowledging that all deposits at the special purpose
30 depository institution are not insured by the federal deposit insurance corporation. The special
31 purpose depository institution shall permanently retain this acknowledgment.

32 III. A special purpose depository institution shall include in all advertising a disclosure that
33 deposits are not insured by the federal deposit insurance corporation, if applicable.

34 383-F:10 Formation; Articles of Incorporation.

35 I. Except as otherwise provided by paragraph V of this section, 5 or more adult persons may
36 form a special purpose depository institution. The incorporators shall subscribe the articles of

1 incorporation and transmit them to the commissioner as part of an application for a charter under
2 RSA 383-F:12.

3 II. The articles of incorporation shall include the following information:

4 (a) The corporate name;

5 (b) The object for which the corporation is organized;

6 (c) The term of its existence, which may be perpetual;

7 (d) The place where its office shall be located and its operations conducted;

8 (e) The amount of capital stock and the number of shares;

9 (f) The name and residence of each shareholder subscribing to more than 10 percent of
10 the stock and the number of shares owned by that shareholder;

11 (g) The number of directors and the names of those who shall manage the affairs of the
12 corporation for the first year; and

13 (h) A statement that the articles of incorporation are made to enable the incorporators to
14 avail themselves of the advantages of the laws of the state.

15 III. Copies of all amended articles of incorporation shall be filed in the same manner as the
16 original articles of incorporation.

17 IV. The incorporators shall solicit capital prior to filing an application for a charter with the
18 commissioner, consistent with RSA 383-F:11. In the event an application for a charter is not filed or
19 is denied by the commissioner, all capital shall be promptly returned without loss.

20 V. Subject to applicable federal and state law, a bank holding company may apply to hold a
21 special purpose depository institution.

22 383-F:11 Required Initial Capital and Surplus; Additional Capital.

23 I. The capital stock of each special purpose depository institution chartered under this
24 chapter shall be subscribed for as fully paid stock. No special purpose depository institution shall be
25 chartered with capital stock less than \$5,000,000.

26 II. No special purpose depository institution shall commence business until the full amount
27 of its authorized capital is subscribed and all capital stock is fully paid in. No special purpose
28 depository institution may be chartered without a paid up surplus fund of not less than 3 years of
29 estimated operating expenses in the amount disclosed pursuant to RSA 383-F:12, II or in another
30 amount required by the commissioner.

31 III. A special purpose depository institution may acquire additional capital prior to the
32 granting of a charter and may report this capital in its charter application.

33 383-F:12 Application for Charter and Requirements.

34 I. No person or entity shall act as a special purpose depository institution without first
35 obtaining a charter and certificate of authority to operate from the commissioner under this chapter.

36 II. The incorporators under RSA 383-F:10, I shall apply to the commissioner for a charter.
37 The application shall contain the special purpose depository institution's articles of incorporation, a

1 detailed business plan, a comprehensive estimate of operating expenses for the first 3 years of
2 operation, a complete proposal for compliance with the provisions of this chapter and evidence of the
3 capital required under RSA 383-F:11. The commissioner may prescribe the form of application by
4 rule.

5 III. Each application for a charter shall be accompanied by an application fee established by
6 the commissioner pursuant to rule, which shall be no greater than the costs incurred by the
7 commissioner in reviewing the application. The application fee shall be credited to the special
8 purpose depository institutions subaccount created by paragraph IV of this section.

9 IV. There is established a special purpose depository institutions subaccount within the
10 financial institutions administration account. Funds in the subaccount shall be used by the
11 commissioner to supervise special purpose depository institutions and to otherwise carry out the
12 duties specified by this chapter. Funds in the subaccount shall be nonlapsing and continuously
13 appropriated to the subaccount. For purposes of accounting and investing only, the special purpose
14 depository institutions subaccount shall be treated as a separate account from the financial
15 institutions administration account.

16 383-F:13 Procedure Upon Filing Application.

17 I. Upon receiving an application for a special purpose depository charter, the commissioner
18 shall notify the applicants in writing within 30 calendar days of any deficiency in the required
19 information or that the application has been accepted for filing. When the commissioner is satisfied
20 that all required information has been furnished, the commissioner shall establish a time and place
21 for a public hearing which shall be conducted not less than 60 days, nor more than 120 days, after
22 notice from the commissioner to the applicants that the application is in order.

23 II. Within 30 days after receipt of notice of the time and place of the public hearing, the
24 applicants shall cause notice of filing of the application and the hearing to be published at the
25 applicants' expense in a newspaper of general circulation within the county where the proposed
26 special purpose depository institution is to be located. Publication shall be made at least once a
27 week for 3 consecutive weeks before the hearing, stating the proposed location of the special purpose
28 depository institution, the names of the applicants for a charter, the nature of the activities to be
29 conducted by the proposed institution and other information required by rule. The applicants shall
30 furnish proof of publication to the commissioner not more than 10 days prior to the hearing. The
31 commissioner shall send notice of the hearing to state and national banks, federal savings and loan
32 associations and other financial institutions in the state and federal agencies who have requested
33 notice from the commissioner.

34 383-F:14 Procedure for Hearings on Charter Applications. The hearing for a charter application
35 shall be conducted as a contested case under RSA 541-A.

36 383-F:15 Investigation and Examination by Commissioner.

1 I. Upon receiving the articles of incorporation, the application for a charter and other
2 information required, the commissioner shall make a careful investigation and examination of the
3 following:

4 (a) The character, reputation, financial standing and ability of the incorporators;

5 (b) The character, financial responsibility, banking or other financial experience and
6 business qualifications of those proposed as officers and directors; and

7 (c) The application for a charter, including the adequacy and plausibility of the business
8 plan of the special purpose depository institution and whether the institution has offered a complete
9 proposal for compliance with the provisions of this chapter.

10 II. The commissioner shall submit the results of his or her investigation and examination at
11 the public hearing on the charter application and shall be subject to cross examination by any
12 interested party. No relevant information shall be excluded by the commissioner as hearsay.

13 383-F:16 Approval or Disapproval of Application; Criteria for Approval; Action Upon
14 Application.

15 I. Within 90 days after receipt of the transcript of the public hearing, the commissioner shall
16 render a decision on the charter application based solely on the following criteria:

17 (a) Whether the character, reputation, financial standing and ability of the incorporators
18 is sufficient to afford reasonable promise of a successful operation;

19 (b) Whether the character, financial responsibility, banking or other financial experience
20 and business qualifications of those proposed as officers and directors is sufficient to afford
21 reasonable promise of a successful operation;

22 (c) The adequacy and plausibility of the business plan of the special purpose depository
23 institution;

24 (d) Compliance with the capital and surplus requirements of RSA 383-F:11;

25 (e) The special purpose depository institution is being formed for no other purpose than
26 legitimate objectives authorized by law;

27 (f) That the name of the proposed special purpose depository institution does not
28 resemble so closely the name of any other financial institution transacting business in the state so as
29 to cause confusion; and

30 (g) Whether the applicants have complied with all applicable provisions of state law.

31 II. The commissioner shall approve an application upon making favorable findings on the
32 criteria set forth in paragraph I of this section. If necessary, the commissioner may either
33 conditionally approve an application by specifying conditions relating to the criteria or may
34 disapprove the application. The commissioner shall state findings of fact and conclusions of law as
35 part of its decision. If the commissioner approves the application, he or she shall endorse upon the
36 articles of incorporation the approval of the commissioner and shall transmit one copy to the
37 secretary of state, retain one copy and return a copy to the applicants within 20 days after the date

1 of the decision approving the application. If the commissioner conditionally approves an application
2 and upon compliance with necessary conditions required, the commissioner shall proceed as provided
3 in the preceding sentence. If the commissioner disapproves the application, he or she shall mail
4 notice of the disapproval to the applicants within 20 days of the commissioner's disapproval.

5 383-F:17 Certificate of Authority to Commence Business Required; Approval or Denial; Failure
6 to Commence Business.

7 I. If an application is approved and a charter granted by the commissioner under RSA 383-
8 F:14, the special purpose depository institution shall not commence business before also receiving a
9 certificate of authority to operate from the commissioner. The application for a certificate of
10 authority shall be made to the commissioner and shall certify the address at which the special
11 purpose depository institution will operate and that all adopted bylaws of the institution have been
12 attached as an exhibit to the application. The application shall state the identities and contact
13 information of officers and directors. The commissioner shall approve or deny an application for a
14 certificate of authority to operate within 30 days after a complete application has been filed. The
15 authority of the commissioner to disapprove any application shall be restricted solely to
16 noncompliance with this section, provided that if the commissioner approves the application, the
17 commissioner shall issue a certificate of authority to the applicants within 20 days. If the
18 commissioner denies the application, the commissioner shall mail a notice of denial to the applicants
19 within 20 days, stating the reasons for denying the application, and grant to the applicants a period
20 of 90 days to resubmit the application with the necessary corrections. If the applicants fail to comply
21 with requirements of the notice of denial within 90 days from the receipt of the notice, the charter of
22 the special purpose depository institution shall be revoked by the commissioner. The failure of the
23 commissioner to act upon an application for a certificate of authority within 30 days shall be deemed
24 an approval.

25 II. If an approved special purpose depository institution fails to commence business in good
26 faith within 6 months after the issuance of a certificate of authority to operate by the commissioner,
27 the charter and certificate of authority shall expire. The commissioner, for good cause and upon an
28 application filed prior to the expiration of the 6 month period, may extend the time within which the
29 special purpose depository institution may open for business.

30 383-F:18 Decisions by Commissioner Appealable; Grounds. Any decision of the commissioner in
31 approving, conditionally approving or disapproving a charter for a special purpose depository
32 institution or the issuance or denial of a certificate of authority to operate is appealable to the
33 district court of the county in which the institution is to be located, in accordance with the provisions
34 of RSA 541-A. In addition to the grounds for appeal contained in RSA 541-A, an appellant may
35 appeal if the commissioner fails to make any of the required findings or otherwise take an action
36 required by law.

1 383-F:19 Surety Bond; Pledged Investments; Investment Income; Bond or Pledge Increases;
2 Hearings.

3 I. Except as otherwise provided by paragraph II of this section, a special purpose depository
4 institution shall, before transacting any business, pledge or furnish a surety bond to the
5 commissioner to cover costs likely to be incurred by the commissioner in a liquidation or
6 conservatorship of the special purpose depository institution. The amount of the surety bond or
7 pledge of assets under paragraph II of this section shall be determined by the commissioner in an
8 amount sufficient to defray the costs of a liquidation or conservatorship.

9 II. In lieu of a bond, a special purpose depository institution may irrevocably pledge
10 specified capital equivalent to a bond under paragraph I. Any capital pledged to the commissioner
11 under this section shall be held in a state or nationally chartered bank or savings and loan
12 association having a principal or branch office in this state. All costs associated with pledging and
13 holding such capital are the responsibility of the special purpose depository institution.

14 III. The commissioner may adopt rules to establish additional investment guidelines or
15 investment options for purposes of the pledge or surety bond required by this section.

16 IV. In the event of a liquidation or conservatorship of a special purpose depository
17 institution pursuant to RSA 383-F:23, the commissioner may, without regard to priorities,
18 preferences or adverse claims, reduce the surety bond or capital pledged under this section to cash as
19 soon as practicable and utilize the cash to defray the costs associated with the liquidation or
20 conservatorship.

21 V. Income from capital pledged under paragraph II of this section shall be paid to the special
22 purpose depository institution, unless a liquidation or conservatorship takes place.

23 VI. Upon evidence that the current surety bond or pledged capital is insufficient, the
24 commissioner may require a special purpose depository institution to increase its surety bond or
25 pledged capital by providing not less than thirty days written notice to the institution. The special
26 purpose depository institution may request a hearing before the commissioner not more than 30 days
27 after receiving written notice from the commissioner under this section. Any hearing before the
28 commissioner shall be held pursuant to RSA 541-A.

29 383-F:20 Reports and Examinations; Supervisory Fees; Required Private Insurance or Bond.

30 I. The commissioner may call for reports verified under oath from a special purpose
31 depository institution at any time as necessary to inform the commissioner of the condition of the
32 institution.

33 II. All reports required of special purpose depository institutions by the commissioner and
34 all materials relating to examinations of these institutions shall be subject to the provisions of RSA
35 91-A.

36 III. Every special purpose depository institution is subject to the examination of the
37 commissioner. The commissioner or a duly appointed examiner shall visit and examine special

1 purpose depository institutions on a schedule established by rule. The commissioner or a duly
2 appointed examiner shall make a complete and careful examination of the condition and resources of
3 a special purpose depository institution, the mode of managing institution affairs and conducting
4 business, the actions of officers and directors in the investment and disposition of funds, the safety
5 and prudence of institution management, compliance with the requirements of this chapter and such
6 other matters as the commissioner may require. After an examination, the special purpose
7 depository institution shall remit to the commissioner an amount equal to the total cost of the
8 examination. This amount shall be remitted to the state treasurer and deposited into the special
9 purpose depository institutions subaccount created by RSA 383-F:12.

10 IV. On or before January 31 and July 31 of each year, a special purpose depository
11 institution shall compute and pay supervisory fees to the commissioner based on the total assets of
12 the special purpose depository institution as of the preceding December 31 and June 30 respectively.
13 Supervisory fees under this section shall provide for the operating costs of the office of the
14 commissioner and the administration of the laws governing special purpose depository institutions.
15 Such fees shall be established by rule of the commissioner and shall be adjusted by the commissioner
16 to assure consistency with the cost of supervision. Supervisory fees shall be deposited by the
17 commissioner with the state treasurer and credited to the special purpose depository institutions
18 subaccount created by RSA 383-F:12.

19 V. A special purpose depository institution shall maintain appropriate insurance or a bond
20 covering the operational risks of the institution, which shall include coverage for directors' and
21 officers' liability, errors and omissions liability and information technology infrastructure and
22 activities liability.

23 383-F:21 Suspension or Revocation of Charter. The commissioner may suspend or revoke the
24 charter of a special purpose depository institution if, after notice and opportunity for a hearing, the
25 commissioner determines that:

26 I. The special purpose depository institution has failed or refused to comply with an order
27 issued by the commissioner;

28 II. The application for a charter contained a false statement or material misrepresentation
29 or material omission; or

30 III. An officer, director or agent of the special purpose depository institution, in connection
31 with an application for a charter, examination, report or other document filed with the
32 commissioner, knowingly made a false statement, material misrepresentation or material omission
33 to the commissioner or the duly authorized agent of the commissioner.

34 383-F:22 Continuing Jurisdiction. If the charter of a special purpose depository institution is
35 surrendered, suspended or revoked, the institution shall continue to be subject to the provisions of
36 this chapter during any liquidation or conservatorship.

1 383-F:23 Failure of Institution; Unsound or Unsafe Condition; Applicability of Other Insolvency
2 and Conservatorship Provisions.

3 I. If the commissioner finds that a special purpose depository institution has failed or is
4 operating in an unsafe or unsound condition, as defined in this section, that has not been remedied
5 by an order of the commissioner, the commissioner shall conduct a liquidation or appoint a
6 conservator.

7 II. As used in this section:

8 (a) "Failed" or "failure" means, consistent with rules adopted by the commissioner, a
9 circumstance when a special purpose depository institution has not:

10 (1) Complied with the requirements of RSA 383-F:6;

11 (2) Maintained a contingency account, as required by RSA 383-F:7;

12 (3) Paid, in the manner commonly accepted by business practices, its legal
13 obligations to depositors on demand or to discharge any certificates of deposit, promissory notes or
14 other indebtedness when due.

15 (b) "Unsafe or unsound condition" means, consistent with rules adopted by the
16 commissioner, a circumstance relating to a special purpose depository institution which is likely to:

17 (1) Cause the failure of the institution, as defined in subparagraph (a);

18 (2) Cause a substantial dissipation of assets
19 or earnings;

20 (3) Substantially disrupt the services provided by the institution to depositors;

21 (4) Otherwise substantially prejudice the depository interests of depositors.

22 383-F:24 Voluntary Dissolution of Special Purpose Depository Institution; Liquidation;
23 Reorganization; Application for Dissolution; Filing Fee; Filing with the Secretary of State;
24 Revocation of Charter.

25 I. A special purpose depository institution may voluntarily dissolve in accordance with the
26 provisions of this section. Voluntary dissolution shall be accomplished by either liquidating the
27 special purpose depository institution or reorganizing the institution into an appropriate business
28 entity that does not engage in any activity authorized only for a special purpose depository
29 institution. Upon complete liquidation or completion of the reorganization, the commissioner shall
30 revoke the charter of the special purpose depository institution and afterward, the company shall not
31 use the word "special purpose depository institution" or "bank" in its business name or in connection
32 with its ongoing business.

33 II. The special purpose depository institution may dissolve its charter either by liquidation
34 or reorganization. The board of directors shall file an application for dissolution with the
35 commissioner, accompanied by a filing fee established by rule of the commissioner. The application
36 shall include a comprehensive plan for dissolution setting forth the proposed disposition of all assets
37 and liabilities, in reasonable detail to effect a liquidation or reorganization, and any other plans

1 required by the commissioner. The plan of dissolution shall provide for the discharge or assumption
2 of all of the known and unknown claims and liabilities of the special purpose depository institution.
3 Additionally, the application for dissolution shall include other evidence, certifications, affidavits,
4 documents or information as the commissioner may require, including demonstration of how assets
5 and liabilities will be disposed, the timetable for effecting disposition of the assets and liabilities and
6 a proposal of the special purpose depository institution for addressing any claims that are asserted
7 after dissolution has been completed. The commissioner shall examine the application for
8 compliance with this section, the business entity laws applicable to the required type of dissolution
9 and applicable rules. The commissioner may conduct a special examination of the special purpose
10 depository institution, consistent with RSA 383-F:20, for purposes of evaluating the application.

11 III. If the commissioner finds that the application is incomplete, the commissioner shall
12 return it for completion not later than 60 days after it is filed. If the application is found to be
13 complete by the commissioner, the commissioner shall approve or disapprove the application not
14 later than 30 days after it is filed. If the commissioner approves the application, the special purpose
15 depository institution may proceed with the dissolution pursuant to the plan outlined in the
16 application, subject to any further conditions the commissioner may prescribe. If the special purpose
17 depository institution subsequently determines that the plan of dissolution needs to be amended to
18 complete the dissolution, it shall file an amended plan with the commissioner and obtain approval to
19 proceed under the amended plan. If the commissioner does not approve the application or amended
20 plan, the special purpose depository institution may appeal the decision pursuant to RSA 541-A.

21 IV. Upon completion of all actions required under the plan of dissolution and satisfaction of
22 all conditions prescribed by the commissioner, the special purpose depository institution shall
23 submit a written report of its actions to the commissioner. The report shall contain a certification
24 made under oath that the report is true and correct. Following receipt of the report, the
25 commissioner, no later than 60 days after the filing of the report, shall examine the special purpose
26 depository institution to determine whether the commissioner is satisfied that all required actions
27 have been taken in accordance with the plan of dissolution and any conditions prescribed by the
28 commissioner. If all requirements and conditions have been met, the commissioner shall, within 30
29 days of the examination, notify the special purpose depository institution in writing that the
30 dissolution has been completed and issue a certificate of dissolution.

31 V. Upon receiving a certificate of dissolution, the special purpose depository institution shall
32 surrender its charter to the commissioner. The special purpose depository institution shall then file
33 articles of dissolution and other required documents for corporation dissolution with the secretary of
34 state. In the case of reorganization, the special purpose depository institution shall file the
35 documents required by the secretary of state to finalize the reorganization.

36 VI. If the commissioner determines that all required actions under the plan for dissolution,
37 or as otherwise required by the commissioner, have not been completed, the commissioner shall

1 notify the special purpose depository institution, not later than 30 days after this determination, in
2 writing what additional actions shall be taken in order for the institution to be eligible for a
3 certificate of dissolution. The commissioner shall establish a reasonable deadline for the submission
4 of evidence that additional actions have been taken and the commissioner may extend any deadline
5 upon good cause. If the special purpose depository institution fails to file a supplemental report
6 showing that the additional actions have been taken before the deadline, or submits a report that is
7 found not to be satisfactory by the commissioner, the commissioner shall notify the special purpose
8 depository institution in writing that its voluntary dissolution is not approved, and the institution
9 may appeal the decision to the commissioner pursuant to RSA 541-A.

10 383-F:25 Failure to Submit Required Report; Fees; Rules. If a special purpose depository
11 institution fails to submit any report required by this chapter or by rule within the prescribed
12 period, the commissioner may impose and collect a fee for each day the report is overdue, as
13 established by rule.

14 383-F:26 Willful Failure to Perform Duties Imposed by Law; Removal. Each officer, director,
15 employee or agent of a special purpose depository institution, following written notice from the
16 commissioner, is subject to removal upon order of the commissioner if he or she knowingly or
17 willfully fails to:

18 I. Perform any duty required by this act or other applicable law; or

19 II. Conform to any rule or order of the commissioner.

20 383-F:27 Rules. The commissioner shall adopt all rules necessary to implement this chapter,
21 consistent with RSA 383-F:8, and pursuant to RSA 541-A.

22 2 Bank and Credit Union Regulatory and Enforcement; Scope. Amend RSA 383-A:1-102 to read
23 as follows:

24 383-A:1-102 Scope. Articles 1, 2, 4, 5, 6, and 7 of this chapter apply to state banks and credit
25 unions, except as otherwise expressly provided. Article 3 of this chapter applies only to state banks.
26 In addition, depository banks are governed by RSA 383-B, trust companies are governed by RSA 383-
27 C, family trust companies are governed by RSA 383-D, ~~and~~ credit unions are governed by RSA 383-
28 **E, and special purpose depository institutions are governed by RSA 383-F.** Article 6 of this
29 chapter also applies to banks and bank holding companies involved in an act or transaction with a
30 state bank or credit union requiring the filing of a notice or an application with the commissioner.

31 3 New Subparagraph; Bank and Credit Union Regulatory Enforcement; Definitions; Special
32 Purpose Depository Institution Added.. Amend RSA 383-A:2-201, (a) by inserting after
33 subparagraph (48-a) the following new subparagraph:

34 (48-b) "Special purpose depository institution" means a corporation operating
35 pursuant to RSA 383-F.

1 4 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Special Purpose
2 Depository Institutions Exempted Entity for Virtual Currency. Amend RSA 399-G:3, VI-a to read as
3 follows:

4 VI-a. Persons who engage in the business of selling or issuing payment instruments or
5 stored value solely in the form of convertible virtual currency or receive convertible virtual currency
6 for transmission to another location. Such persons shall be subject to the provisions of RSA 358-A
7 ***and, where applicable, RSA 383-F.***

8 5 Bank Commissioner; Examination of Banks, Credit Unions, Trust Companies, and Family
9 Trust Companies; Inclusion of Special Purpose Depository Institutions. Amend RSA 383:9-d, I to
10 read as follows:

11 I. Unless an exception is granted as provided in paragraph II, the commissioner shall
12 examine the condition and management of all depository banks and credit unions every 18 months or
13 more often when necessary in his or her judgment. The commissioner shall examine the condition
14 and management of all trust companies in accordance with RSA 383-C:14-1401. The commissioner
15 shall examine the condition and management of all family trust companies in accordance with RSA
16 383-D:11-1101. ***The commissioner shall examine the condition and management of all***
17 ***special purpose depository institutions in accordance with RSA 383-F.***

18 6 Effective Date. This act shall take effect July 1, 2022.

**HB 1504-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to special purpose depository institutions.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	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:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Assessment of chartered entities and Examination, Application and Supervision fees..			

METHODOLOGY:

This bill establishes a special class of depository institutions, creates regulations pertaining to them, and amends existing law to allow for the special class in the regulatory scheme of banking within the state.

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 SPDI's.	\$ -	\$ 80,000	\$ 80,000	\$ 80,000
Total Expenditures:	\$ -	\$ 1,740,000	\$ 872,500	\$ 925,500
<i>Note: The costs for the 7 positions include salary, benefits, office space, equipment and general office expenses based on the average Banking Department employee.</i>				

- The Department assumes that it will charge all SPDI's 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 proposed supervision and application fees, the Department is not able to predict the impact on revenue and states such fees are not consistent with existing banking laws for funding the Department in RSAs 383 through 383-C.

AGENCIES CONTACTED:

Banking Department