

MEMORANDUM

DATE: February 8, 2021
TO: House Industry, Business and Labor Committee
FROM: Lise Kruse, Commissioner
SUBJECT: Testimony Regarding House Concurrent Resolution No. 3024

Chairman Lefor and members of the House Industry, Business and Labor Committee, thank you for the opportunity to testify regarding House Concurrent Resolution No. 3024.

Mr. Chairman and members of the Committee, our Department is neutral on this resolution; however, since we are the chartering agency of any bank or financial institution, I would like to take this opportunity to provide information about special purpose depository institutions since it is an area we are studying and monitoring closely.

In 2019 the state of Wyoming authorized the chartering of special purpose depository institutions (SPDIs). It is the only such charter in the nation; however, the federal government is also looking at this option. These institutions are considered banks that receive deposits and also conduct fiduciary asset

management, custody and related activities. It is expected that these institutions will focus on digital assets, such as virtual currencies. Where a SPDI differs from a trust company is that they take customer deposits. Where they differ from a traditional bank, is that these deposits are not required to be FDIC insured since an SPDI is prohibited from making loans with customer deposits of regular currency.

What I found from my Wyoming counterpart is that they worked extensively over a 2-year period to write rules and create the proper regulatory and legal framework. Changes had to be made to Wyoming laws, specifically the law that prohibits chartering a bank without deposit insurance, and also Uniform Commercial Code Law clarifications. The estimated cost to establish the program was about \$1 million. They estimated a 20% increase in their budget and also four additional FTEs just to start. To date, their State Banking Board has approved two applicants, and have had 2 more apply. None of these entities have started operations, so the overall viability of the program and the charter have therefore not been fully proven. An examination program has been developed, and in the fall of 2021, training will be offered to regulators outside of Wyoming. Our Department's examiners, including myself, plan to attend training so that we can learn as much as possible and are fully informed about these new market entrants. This includes not only SDPIs but also the overlapping concept of crypto currency regulation as part of money transmission. As noted in prior testimony, we intend to introduce a model law money transmitter bill for your consideration in 2023.

The reason we are neutral to this study is that it does not necessarily determine any future action on behalf of our Department – we are monitoring the marketplace regardless of a study. We will continue to monitor the charters in Wyoming, observe the viability and engage with federal regulators. We will ensure our examiners are trained and up to date on any new technologies or products offered by our industries. As with any new financial product, if our Department finds that we should introduce or modernize regulation and licensing obligations to accommodate new products and to protect our citizens, or make sure products are available, we will do so when we believe the time is right.

Finally, I understand this resolution to be a study conducted by a legislative subcommittee, not the Department. If that is incorrect, if the intention was for the Department to lead this study and report back, we have not budgeted for this, and this resolution may need a fiscal note. If the intention is for the study to reside with a legislative subcommittee, we would be happy to assist in locating industry consultants for this study who have been involved with the creation of these types of charters. Also, if it is ultimately determined that the legislative body wants to move forward with a bill to create a digital asset charter, we would be happy to work with the bill authors to ensure the Department is able to fulfill any new mandates.

Mr. Chairman, thank you for the opportunity to provide this testimony. I would be happy to answer any questions the Committee may have.