CONSIDERATIONS ON A BULLION-BACKED DIGITAL CURRENCY

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Testimony as prepared for delivery before the New Hampshire House Committee on Commerce and Consumer Affairs Hearing on the New Hampshire Sound Money Act

January 9, 2024

Chairman Hunt, Vice Chairman Ammon, and honorable members of the Committee:

My name is Christopher Russo. I am an economist with prior appointments at the U.S. Congress Joint Economic Committee, the U.S. Senate Banking Committee, the Federal Reserve Bank of New York, and the Federal Reserve Bank of Chicago. I am currently completing my doctoral dissertation in economics at George Mason University. I earned a master's degree in financial mathematics from the University of Chicago.

Thank you for inviting me to discuss the New Hampshire Sound Money Act. If enacted, the Act would declare gold and silver as legal tender, establish a state depository for gold and silver bullion, and enable a digital currency for bullion-backed digital payments. I hope to inform the Committee as it considers creating this alternative to the U.S. dollar. For sake of discussion, I will refer to this currency as the "Granite coin."

My expert testimony can be summarized by three key points.

First, the dollar has lost most of its value since the U.S. left the gold standard in 1933. Ultimately, the erosion of the dollar's value was caused by an unsustainable rise in U.S. debt, which was sometimes aided by easy money policy from the Federal Reserve. Last week, the U.S. national debt reached an all-time high of \$34 trillion. The Congressional Budget Office projects that the national debt will continue to soar. Unless Congress restores fiscal responsibility, the dollar's purchasing power will further deteriorate.

Second, a Granite coin could offer New Hampshire citizens a hedge against inflation. By design, a Granite coin would be fully backed by a fixed quantity of underlying specie. For example, one Granite coin might be defined as one gram of pure gold. The consumer purchasing power of a Granite coin would fluctuate as gold rose or fell in

market value; but if the Granite coin was widely adopted as money, then competitive market forces would tend to stabilize its consumer purchasing power over time.

Third, however, a commodity money is not a panacea for inflation. The market forces that tend to stabilize consumer prices might take years or decades to fully operate, and only if it was widely adopted. Moreover, a commodity money could incur its own economic costs. As with all policy choices, choosing a monetary standard involves tradeoffs between imperfect alternatives.

As you consider the potential costs and benefits of a Granite coin, two stylized examples may be helpful to show how a commodity standard could work in principle.

- Example A: Suppose that Granite coins are trading below its specie value. Profitseeking individuals would buy coins, redeem them for the specie backing the coins, and sell the specie in the open market for a profit. The falling supply of Granite coin would raise its price until there was no longer a profit opportunity.
- Example B: Suppose that a decline in the public's demand for money reduces the purchasing power of Granite coins below its non-monetary value (e.g., the price of specie as an industrial input into jewelry or computer chips). Firms would redeem Granite coin to obtain specie for use as industrial input. The falling supply of Granite coin would tend to restore its initially lost purchasing power.

In addition to considering the costs and benefits of creating a Granite coin, the Committee should also consider how a Granite coin would fit into the broader Federal financial regulatory framework. For example, here are several important issues.

- How would the Granite coin provide robust privacy protections while (e.g.) meeting the requirements of Federal anti-money laundering law?
- Would the Granite coin be considered a currency, a commodity, or a security under Federal law? (I.e., which Federal agency would regulate it?)
- Could Granite coin be held by state-chartered money transmitters, asset managers, depository institutions, or bank holding companies?

Although I do not have time to address these important issues in my testimony today, I urge you to carefully consider the likely regulatory impacts of your design decisions.

Finally, I hope this hearing serves as a wakeup call to my friends in Washington. A century of inflation has made Americans skeptical of the U.S. dollar, and some are

seriously considering alternatives. Will we fairly compete for the space in their wallets and restore fiscal responsibility? Or will we return to the crooked politics of financial repression and inflationary finance? The American people patiently await our answer.

Thank you again for the invitation to speak. I would be pleased to take your questions.

SELECTED REFERENCES

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Disclaimer: All views expressed herein are mine alone, except where otherwise cited. I have no material conflicts of interest. I did not receive compensation (including travel or honorarium) for this testimony.

Contact: Please email comments, questions, and media requests to chris@russoecon.com.

APPENDIX A: BILL TEXT

This appendix incorporates the relevant bill text of HB 1674-FN (as introduced) for reference. I have made minor formatting changes for readability and accessibility.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to establishing a New Hampshire legal tender act and establishing a state bullion depository.

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

1. New Chapter; New Hampshire Legal Tender Act. Amend RSA by inserting after chapter 5-C the following new chapter:

CHAPTER 5-D

NEW HAMPSHIRE LEGAL TENDER ACT

5-D:1 Definitions. In this chapter:

- I. "Administrator" means the individual or entity appointed by the New Hampshire state treasury to oversee the operation and management of the depository.
- II. "Bullion" means refined precious metal in any shape or form, including coins, rounds, bars, ingots, and any other products, that is:
 - (a) Stamped or imprinted with the weight and purity of the precious metal that it contains; and
 - (b) Valued primarily based on its metal content and not its form and function.
- III. "Depository" refers to the New Hampshire state bullion depository established under this chapter.
- IV. "Depository account" means an account established with the depository to facilitate the storage, transfer, and exchange of bullion.
- V. "Electronic currency" means a representation of actual gold and silver, specie and bullion held in a depository. Such representation shall reflect the exact units of physical specie or gold and silver bullion in the depository account in its fractional troy ounce or gram measurement as provided in this chapter.
- VI. "Functional currency" means the currency of the primary economic environment in which an entity's operations are conducted.
 - (a) The functional currency is:
 - (1) The currency that primarily influences sales prices for goods and services; and
 - (2) The currency in which the significant expenses of operations are generally denominated.
 - (b) The functional currency is used by the entity to report its operating results and financial position.
- VII. "Legal tender" means a medium of exchange that is authorized by the United States Congress or by any state pursuant to Article I Section 8 or Section 10, respectively, of the United States Constitution, for the payment of debts, public charges, taxes or dues.
- VIII. "Open blockchain token" means a digital asset that is:
 - (a) Created upon the confirmation or aggregation of specific transactions on a digital ledger or database; or
 - (b) Created by deploying computer code to a blockchain network, facilitating the creation of digital tokens or other units; or
 - (c) Through a combination of the methods described in subparagraphs (a) or (b);

- (d) Recorded in a digital ledger or database that is chronological, consensus-driven, decentralized, and cryptographically secured, particularly concerning the token's supply and distribution;
- (e) Able to be exchanged or transferred between individuals without the need for a central intermediary; and
- (f) Developed and maintained with a codebase consisting entirely of open-source software, ensuring transparency and collaborative improvement.
- IX. "Open source software" means software that ensures the user:
 - (a) The right to use the software for any purpose, without limitations;
 - (b) Unhindered access to its source code, promoting transparency and understanding, except for cryptographic private keys required to cryptographically sign and verify transactions on a blockchain or distributed ledger;
 - (c) The ability to thoroughly inspect and review the software's inner workings, excluding values related to the aforementioned cryptographic keys;
 - (d) The right to leverage, adapt, or modify specific components or functionalities based on individual requirements;
 - (e) The right to replicate and share the software with others, excluding any distribution of cryptographic keys essential for signing and verification on blockchains or distributed ledgers; and
 - (f) The privilege to enhance or modify the software and disseminate those changes, ensuring that derivative works remain under a license consistent with the original software's licensing terms.
- X. "Precious metal" means gold and silver.
- XI. "Qualified business unit" means any unit of trade or business of a taxpayer which maintains separate books and records in a particular functional currency.
- XII. "Specie" means bullion fabricated into products of uniform shape, size, design, content, weight, and purity, that are suitable for or customarily used as currency, as a medium of exchange, or as the medium for purchase, sale, storage, transfer, or delivery of precious metals in retail or wholesale transactions.
- XIII. "Specie legal tender" means:
 - (a) Specie coin issued by the United States government at any time; and
 - (b) Any other specie designated by the state treasurer as legal tender pursuant to the monetary authority not prohibited by Article I Section 10 of the United States Constitution.

5-D:2 Legal Tender.

- I. The following are considered legal tender:
 - (a) Specie legal tender; and
 - (b) Electronic currency.
- II. Bullion shall not be characterized as personal property for taxation or regulatory purposes.
- III. The exchange of one type or form of legal tender for another type or form of legal tender shall not give rise to any tax liability.
- IV. The purchase or sale of any type or form of bullion shall not give rise to any tax liability.
- V. Unless specifically provided by law or by contract, a person shall not compel another person to tender specie/electronic currency or to accept specie/electronic currency as legal tender.
- VI. The attorney general's office shall enforce this section without prejudice to a private right of action.
- VII. If a valid and enforceable contract expressly designates a type or form of specie as tender, then a New Hampshire court asked to adjudicate the breach of such a contract shall require, as a remedy for the breach, the specific performance of tendering the type or form of specie specified in the contract.
- VIII. Legal tender specie may be recognized to pay private debts, taxes, and fees levied by the state of New Hampshire or any local subdivisions thereof.

- IX. Any taxpayer may maintain one or more qualified business units having a single functional currency for each such unit, and may elect to either pay the tax liability of such qualified business unit in such functional currency, if authorized by the treasurer, or in U.S. dollars determined:
 - (a) By computing the taxable income or loss separately for each such unit in its functional currency.
 - (b) By translating the income or loss separately computed under subparagraph (a) at the appropriate exchange rate, and
 - (c) By making proper adjustments as prescribed by the treasurer for transfers of property between qualified business units of the taxpayer having different functional currencies.

5-D:3 Depository; Establishment and Administration.

- I. The New Hampshire state treasury may establish and administer a bullion depository to provide a secure location for the storage of bullion; or
- II. The department may contract with a third party to act as the administrator to manage the day-to-day operations of the depository and implement the depository security, storage, transactional, and administrative procedures in accordance with this subsection and any rule adopted thereunder. As used in this subsection, the term "security" means physical, online, and logical security standards that meet generally accepted standards within the information assurance industry.

5-D:4 Depository Accounts; Establishment.

- I. A person, including but not limited to, an individual, a corporation, or a governmental entity, may establish a depository account by entering into a depository agreement with the depository.
- II. The administrator shall maintain a record of all depository accounts, and all transactions, deposits, and withdrawals associated with each account. Such records shall be provided upon written request within 5 business days. All records should be kept, at a minimum, on approved state of New Hampshire computer systems and records of depository accounts should be maintained by the state for a period of not less than 7 years and one day. The administrator shall ensure that account information remains confidential and is protected from unauthorized access.
- III. A depository account holder may deposit, withdraw, sell, or purchase bullion through their account in accordance with this chapter and any rules adopted under it. The depository shall develop processes and systems to facilitate timely bullion purchase, sale, deposits, and withdrawals which may include but are not limited to:
 - (a) Physical deposit and withdrawals to and from the depository's physical location, or, to a partner organization such as a major mint or refiner capable of providing bullion that meets standards set by the state treasurer.
 - (b) Electronic systems that meet current industry standards for the purchase and sale of bullion for account holders that cannot or choose not to travel to the physical location.
 - (c) State agencies, counties, municipalities, and other governmental entities may use the depository for storing bullion. The state treasurer may deposit a portion of its funds into the depository in the form of bullion, and such bullion is considered part of the state's official financial reserves. The department shall develop guidelines for the state's use of the depository.

5-D:5 Security Measures and Insurance.

I. The administrator shall ensure the depository has state-of-the-art security measures to prevent theft, fraud, or other unauthorized access or removal of bullion.

- II. The depository shall maintain insurance coverage sufficient to cover the full value of all bullion stored at the depository. Such insurance should be provided by an insurer rated A (Excellent) by A.M. Best or similar rating agency.
- III. Regular audits, occurring not less than bi-annually, shall be conducted by an independent third-party to verify the amount and value of bullion stored in the depository and to inspect the security measures and protocols in place. The third party should be an established provider with a good history of providing such service. Documentation of audit results must be made available to the public upon request within a reasonable time frame. Documentation should include, at a minimum, summary totals of metals amounts assessed, as well as documentation of any discrepancies found during the audit.

5-D:6 Transactions and Service Fees.

- I. The administrator may establish fees for the storage, withdrawal, and transfer of bullion within the depository.
- II. All fees shall be made public and available to depository account holders and the general public.
- III. The state treasury shall periodically review these fees to ensure they are reasonable and in line with market rates.

5-D:7 State Use of the Depository.

- State agencies, municipalities, and other governmental bodies in New Hampshire may use the depository for storing bullion.
- II. The state treasury may deposit a portion of its funds into the depository in the form of bullion, with such bullion being considered as part of the state's official financial reserves.
- III. The state treasury shall develop guidelines and adopt rules for the state's use of the depository.

5-D:8 Reporting and Oversight.

- I. The administrator shall provide a quarterly report to the state treasury detailing the operations, transactions, and financial status of the depository.
- II. The state treasury shall provide an annual report to the speaker of the house of representatives and the senate president regarding the status, operations, and financials of the depository.

5-D:9 Rulemaking. The state treasurer shall adopt rules under RSA 541-A as necessary for:

- I. The establishment, operation, security, and administration of the depository.
- II. Ensuring the security of the electronic currency.
- III. Preventing fraud.
- IV. Enter into contracts to administer this subsection and fulfill the purposes of this chapter.

5-D:10 Conflicts of Interest.

- I. No employee or official associated with the oversight or operation of the depository shall have any financial interests in companies or entities that produce, sell, or manage bullion.
- II. Any potential conflict of interest must be disclosed to the state treasury immediately upon discovery.
- III. Violations of this section may result in removal from position, fines, or other legal penalties as determined by the attorney general.

5-D:11 Contractual Agreements.

I. The state treasurer has all authority necessary to enter into contracts to administer this chapter and fulfill the purposes of this chapter.

- II. The administrator may enter into contractual agreements with private entities for services related to the storage, transportation, or security of bullion.
- III. All contractual agreements shall be reviewed and approved by the state treasury to ensure they align with the state's interests and security requirements.

5-D:12 Legal and Regulatory Compliance.

- I. The depository shall operate in compliance with all federal and state laws pertaining to bullion storage, management, and transactions.
- II. The administrator shall consult regularly with legal counsel to ensure that the depository remains compliant with evolving legal and regulatory landscapes.

5-D:13 Termination or Transfer of the Depository.

- The depository may only be terminated or transferred to a private entity by an act adopted by the New Hampshire legislature.
- II. Any termination or transfer must ensure the security of the bullion, the rights of account holders, and the financial interests of the state.

5-D:14 Establishment and Administration of Electronic Gold and Silver Currencies.

- I. As authorized by the U.S. Constitution in Art. I Sec. 10 the state treasurer shall, establish electronic currencies backed by specie legal tender, or other bullion designated by the state treasurer, so that each unit of the electronic currency issued represents a particular fraction of specie legal tender or such other form of bullion, which shall be held as bailment as provided in this section.
- II. The electronic currencies established under this chapter shall utilize an open blockchain token to ensure transparency, security, and auditability of the currencies.
- III. The state treasurer may contract with a private vendor to establish the electronic currencies or perform other duties under this chapter.
- IV. In establishing the electronic currency, the state treasurer shall establish a means to ensure that a person who holds the electronic currency may readily transfer or assign the electronic currency to any other person by electronic means.

5-D:15 Gold and Silver Held as a Bailment.

- I. The state treasurer shall, on behalf of the electronic currency holders, hold as a bailment the specie legal tender or other designated bullion acquired to back each electronic currency. The state treasurer shall maintain enough specie legal tender or other designated bullion to provide for the redemption in specie legal tender or other designated bullion of all units of the electronic currencies that have been issued.
- II. The state treasurer may establish an account in the depository to hold specie legal tender or other designated bullion purchased to back the electronic currency and may hold the specie legal tender or other designated bullion otherwise as convenient for the administration of this section.

5-D:16 Purchase and Deposit; Issuance. A person may:

- I. Purchase from this state through the state treasurer any number of units of the electronic currencies;
- II. Deposit specie legal tender or other designated bullion with the state treasurer, the administrator, or the depository, in exchange for units of an electronic currency;
- III. Present to the state treasurer or the administrator any number of units of an electronic currency to exchange for legal tender other than that backing the electronic currency; or

IV. Surrender to the state treasurer or the administrator, for redemption, any number of units of an electronic currency in exchange for an equal amount of specie legal tender or other designated bullion backing such surrendered electronic currency, with any fractional remainders paid in other legal tender as necessary to facilitate the transaction.

5-D:17 Value of Electronic Currency.

- At the time of each transaction involving the issuance or redemption of the electronic currency, the state
 treasurer or administrator shall determine the value of a unit of the electronic currency in non-specie legal
 tender based on market prices.
- II. The state treasurer or administrator shall publish online exchange rates in non-specie legal tender for any specie legal tender or other bullion products that are accepted in the depository to back the electronic currencies.

5-D:18 Certain Money and Deposits Held in Bailee Relationship and Not Subject to Legislative Appropriation. All legal tender and other designated bullion holdings are:

- I. Held as a bailment by the state treasurer as bailee on behalf of persons who hold the electronic currency; and
- II. Not available for legislative appropriation.

5-D:19 Fees. The state treasurer may establish a fee for the issuance or redemption of the electronic currencies at any rate necessary to cover the costs of administering this chapter. The state treasurer shall deposit the fee proceeds to the credit of an account established in the general fund that may be used to pay the costs.

5-D:20 Confiscations, Requisitions, Seizures, And Other Actions Void.

- I. A purported confiscation, requisition, seizure, or other attempt to control the ownership, disposition, or proceeds of a withdrawal, transfer, liquidation, or settlement of a depository account, including the precious metals represented by the balance of a depository or electronic currency account, if effected by a governmental or quasi-governmental authority other than an authority of this state or by a financial institution or other person acting on behalf of or pursuant to a directive or authorization issued by a governmental or quasi-governmental authority other than an authority of this state, in the course of a generalized declaration of illegality or emergency relating to the ownership, possession, or disposition of one or more precious metals, contracts, or other rights to the precious metals or contracts or derivatives of the ownership, possession, disposition, contracts, or other rights, is void ab initio and of no force or effect.
- II. The depository in the case of receiving notice of a purported confiscation, requisition, seizure, or other attempt to control the ownership, disposition, or proceeds of a withdrawal, transfer, liquidation, or settlement of a depository or electronic currency account, including the precious metals represented by the balance of a depository or electronic currency account, effected by a governmental or quasi-governmental authority other than an authority of this state or by a financial institution or other person acting on behalf of or pursuant to a directive or authorization issued by a governmental or quasi-governmental authority other than an authority of this state, in the course of a generalized declaration of illegality or emergency relating to the ownership, possession, or disposition of one or more precious metals, contracts, or other rights to the precious metals or contracts or derivatives of the ownership, possession, disposition, contracts, or other rights, may not recognize the governmental or quasi-governmental authority, financial institution, or other person acting as the lawful successor of the registered holder of a depository or electronic currency account in question.
- III. On receipt of notice of any transaction described by paragraph II with respect to all or any portion of the balance of a depository or electronic currency account, the depository shall suspend withdrawal privileges associated

with the balances of the depository or electronic currency account until suitable substitute arrangements may be effected in accordance with rules of the state treasurer to enable the registered account holder to take delivery of the precious metals represented by the account balances in question. A voluntary transfer of a depository or electronic currency account balance or of a depository or electronic currency account holders may continue to take place unaffected by the suspension, and the depository shall recognize to the full extent authorized by this chapter and rules adopted under this chapter.

IV. The depository shall refer any matter relating to an action described by subsection (a) to the attorney general for resolution.

5-D:21 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

2. Effective Date. This act shall take effect July 1, 2024.

LBA 24-2675 12/10/23

APPENDIX B: FISCAL IMPACT

This appendix incorporates the relevant fiscal impact text of HB 1674-FN (as introduced) for reference. I have made minor formatting changes for readability and accessibility.

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

Estimated State Impact - Increase / (Decrease)						
	FY 2024	FY 2025	FY 2026	FY 2027		
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable		
Revenue Fund(s)	General Fund and Education Trust Fund Various Agency Funds					
Expenditures	\$0	Indeterminable Increase \$1,000,000+	Indeterminable Increase	Indeterminable Increase		
Funding Source(s)	General Fund Various Agency Funds					
Appropriations	\$0	\$0	\$0	\$0		
Funding Source(s)	None					

- Does this bill provide sufficient funding to cover estimated expenditures? [X] No
- Does this bill authorize new positions to implement this bill? [X] No

Estimated Political Subdivision Impact - Increase / (Decrease)					
	FY 2024	FY 2025	FY 2026	FY 2027	
County Revenue	\$0	\$0	\$0	\$0	
County Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	
Local Revenue	\$0	\$0	\$0	\$0	
Local Expenditures	\$0	Significant Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	

METHODOLOGY:

This bill creates the New Hampshire legal tender act; establishes gold and silver as legal tender; establishes a state depository; and enables digital use of gold and silver.

The Treasury Department states this bill outlines three key initiatives: introducing an alternate legal tender using gold and silver, establishing a state-run bullion depository managed by the State Treasurer,

and creating an electronic currency backed by precious metals. However, the fiscal implications of these proposals are significant.

The legislation mandates the State Treasury to set up and oversee the New Hampshire state bullion depository, responsible for securely storing gold and silver. Yet, there's no provision for funding the construction or daily operations of the depository, estimated to cost millions. While the legislation allows contracting with a third party for depository administration, there's no funding mechanism specified. If a third-party contract isn't feasible, the State Treasury would need more staff and resources, with costs currently undetermined.

Without this depository, the State lacks the necessary infrastructure to accept gold and silver as legal tender for debts and taxes. Furthermore, failing to establish the depository impedes the implementation of an electronic currency backed by these metals by the State Treasurer.

Even if the depository were built and metals were accepted, the costs of creating and managing a gold and silver-backed digital currency through a third-party vendor remain uncertain.

Lastly, setting up the goals outlined in this proposed chapter is expected to have a fiscal impact at the local and county levels. Overall, the legislation presents several requirements with costs that cannot be clearly determined for the State and other governing bodies to execute these initiatives. Notably, the proposal lacks funding for all its components, and presently, the State Treasury's budget is incapable of accommodating the extra expenses needed to implement or administer this legislation.

The Department of Revenue (DRA) states the Department anticipates increased expenses related to handling gold and silver as legal tender, including security measures like armored transportation and secure room updates. However, predicting the frequency of tax payments in these metals makes determining the costs of these security measures challenging resulting in an indeterminable fiscal impact to State expenditures starting in FY 2025.

The proposed RSA 5-D:2, III and IV specify that exchanging legal tender or bullion won't incur tax liabilities, potentially leading to multiple conversions between these forms without tax implications. However, estimating the fiscal impact of these conversions, especially regarding potential gains or losses exempted under this bill, proves difficult for the DRA due to the uncertainty of the magnitude and frequency of such transactions.

The Department of Justice (DOJ) state "The New Hampshire Legal Tender Act" establishes gold and silver as legal tender, creates a state depository, and permits digital use of these metals. Section 5-D:2, VI assigns enforcement to the attorney general's office without specifying the nature (criminal, civil, or injunctive) or the targeted section(s) of the bill. This lack of clarity makes it impossible to determine the fiscal impact on the DOJ. With no defined enforcement actions, both revenue and expenditure fiscal impacts are indeterminable at this time.

The New Hampshire Municipal Association states switching to precious metals like gold and silver for transactions in today's electronic-based economy would mean more security measures for municipalities. This includes enhanced protection for storing these metals in larger safes and needing extra staff to handle transporting and overseeing transactions involving gold and silver.

There's a state law (RSA 41:29 VII) requiring municipal treasurers to deposit funds at least weekly or daily if the total from all departments hits \$1,500 or more. This law also allows for setting fees on transferring, storing, or taking out bullion from the state-run storage. But the exact costs for municipalities tied to these fees aren't clear.

In addition, there's the need for software updates to deal with fluctuating gold and silver prices in accounting systems. Plus, if municipalities opt for a digital gold currency (DGC) system—a type of electronic money backed by gold—more software changes will be necessary. This system lets people pay each other using gold or currency linked to physical gold held by a private company. But municipalities currently lack experience in this area.

Overall there would be a significant increase in local expenditures starting in FY 2025.

AGENCIES CONTACTED:

Treasury Department, Department of Revenue, Department of Justice and New Hampshire Municipal Association