



MEMORANDUM

DATE: January 18, 2023
TO: House Industry, Business and Labor Committee
FROM: Lise Kruse, Commissioner
SUBJECT: Testimony in Opposition of House Bill No. 1347

Chairman Louser and members of the House Industry, Business and Labor Committee, thank you for the opportunity to testify on House Bill No. 1347.

House Bill No. 1347 is intended to prevent financial institutions from boycotting energy companies. Our department regulates financial institutions for safety and soundness. We expect banks to have strong risk management principles in place, but we do not go as far as dictating a bank's business strategy or what particular niche they decide to pursue expertise in. If a bank decides to serve certain customers and industries, as long as it is done in a safe and sound manner, that is a business decision that we agree government should not be involved in. The department is in opposition

have provided reciprocity. The change includes “nonbank financial institution” which is vague, and I question whether that includes all entities under the supervision of our department, which would mean collection agencies, payday lenders, money transmitters, money brokers, any mortgage loan originator, and debt settlement service providers. Including these nonbanks, trust companies, and credit unions as financial institutions will have significant ripple effects in other sections of law that use this definition. Authority previously granted to financial institutions intended for banks only, will now be broadly given to other entities, which will cause confusion due to the conflicts this Bill creates within the law. This definition change has far greater impacts on banking law, powers, and restrictions than this Bill likely intends it to have. For example, when the State Banking Board is considering change of control – who can own a bank, they will consider financial institution experience of the proposed owner. Obviously, this is intended that the individuals should have some banking experience. This definition change opens it up a lot broader, since financial institutions would now include nonbanks, which could differ significantly from banks. It will also impose more stringent standards onto non-depository institution directors and officers. Since a bank takes deposits and has been granted federal deposit insurance, and banks have a significant impact on the

significant interest in matters affecting institutions under our oversight. If the bank is in risk of a bank run, the department must be prepared for the aftermath. The statement on page 5, subsection 1.d, line 22, raises additional concerns about liquidity and safety and soundness of the bank. The exit of existing contracts and term deposits can have safety and soundness and financial implications for the bank, again putting North Dakota citizens' money in excess of the federally insured limit at risk.

Section 4 of the Bill contains the sources of information for the State Treasurer to use when including a financial institution on the list. Page 6, subsections 2.a and 2.b, lines 11 and 12, indicate the treasurer simply needs to receive a complaint about the financial institution. Relying on a one-sided notification, without an appeal right or due process, allows for the possibility of wrongful determinations. Since this is placed in section 6-01, a section of law historically enforced exclusively by the Department of Financial Institutions, all due process protections were written with regards to the department, not the State Treasurer. There does not appear to be any legal checks and balances or appeals processes within this Bill. A bank may deny a loan for a multitude of reasons, but if someone misinterprets the reasoning and file a complaint, the institution may be blacklisted in error.