

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1347

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1347
1/18/2023

Relating to the state treasurer and financial institutions engaged in boycotts of energy companies; and to amend and reenact section 6-01-02 of the North Dakota Century Code, relating to definitions.

Chairman Louser called to order 2:59 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner.
Members absent: Representative Warrey.

Discussion Topics:

- ESG
- Effect on ND banks
- Money management funds
- Return on investments
- Limiting options
- Net zero banking

In favor:

Representative Bernie Satrom, District 12, Primary bill sponsor (no written testimony)

Opposed:

Lise Kruse, Commissioner of ND Financial Institutions, #17482

Rick Clayburgh, Director of the ND Bankers Association (no written testimony)

Additional written testimony:

Eliot Huggins, Dakota Resource Council #14024

Chairman Louser adjourned the meeting 3:26 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1347
1/30/2023

Relating to the state treasurer and financial institutions engaged in boycotts of energy companies; and to amend and reenact section 6-01-02 of the North Dakota Century Code, relating to definitions.

Chairman Louser called to order 3:25 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Discussion Topics:

- Committee action

Representative Ruby moved a Do Not Pass.
Representative Thomas seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	AB
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	N
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 12-1-1

Representative Ostlie will carry the bill.

Chairman Louser adjourned the meeting 3:28 PM

Diane Lillis, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1347: Industry, Business and Labor Committee (Rep. Louser, Chairman)
recommends **DO NOT PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB
1347 was placed on the Eleventh order on the calendar.

TESTIMONY

HB 1347

Testimony of Dakota Resource Council
House Bill No. 1347
January 18th, 2023

Chairman Louser and members of the committee:

My name is Eliot Huggins and I am testifying on behalf of the Dakota Resource Council and our members. Thank you for allowing me to submit written testimony in opposition to HB 1347.

Our members have serious concerns about this Bill. While there is a reasonable debate to be had about the efficacy of ESG policies— this Bill does nothing meaningful to stop ESG. Rather—to countless financial institutions—it paints North Dakota as a place that is not open to business and they will simply take their business elsewhere. This would be a huge detriment to companies and individuals needing access to capital to grow or start a business. Efforts to preserve the fossil fuel industry are understandable given the industry's large economic footprint in our state. However, North Dakota is subject to international market forces that we cannot shield ourselves from if we want to remain competitive in the global economy. In September of 2021, Senator Cramer held a Bully Pulpit interview with the CEO of Goldman Sachs, David Solomon. Mr. Solomon stated: “But one of the things that I will say and look, this is just, you know the reality, that I think that we all have to accept. The institutional capital world is done with coal.” “Too much of the institutional capital is controlled by parties that have decided for good or bad that they want to accelerate that process. It’s going to be very very difficult to finance, you know coal on a go-forward basis anywhere in the world. It’s not just here, but anywhere in the world. I don’t see that getting easier.” [North Dakota energy leaders wrestle with ESG metrics during forum featuring Goldman Sachs CEO | Oil And Energy | willistonherald.com](#)

The reality is, like it or not: Financial institutions more and more commonly don’t see fossil fuels as a worthwhile investment. This market trend will only be exacerbated as Climate Change impacts more and more communities around the world. North Dakota is not immune to the changing dynamics of the international economy. If this legislation passes— it will signal to countless investors and financial institutions that this state is not a place they want to do business. This would hurt our economy and the ability of hardworking people to access capital to grow or start their business. Thank you for the opportunity to share our testimony. I urge the committee to oppose HB 1347 and recommend a DO NOT PASS on HB 1347.

#1



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.