

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 190

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CREDIT UNIONS AND BANKS; AMENDING SECTION 26-2155, IDAHO CODE, TO REQUIRE THAT CREDIT UNIONS HOLDING STATE FUNDS NOT BOYCOTT CERTAIN INDUSTRIES; AMENDING SECTION 67-2739, IDAHO CODE, TO REQUIRE THAT BANKS HOLDING STATE FUNDS NOT BOYCOTT CERTAIN INDUSTRIES; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 26-2155, Idaho Code, be, and the same is hereby amended to read as follows:

26-2155. DESIGNATION OF DEPOSITORY -- REPORTING OF RESERVES AND UNDIVIDED EARNINGS. (1) The state treasurer shall designate credit unions qualified under this chapter as a state depository or depositories. Such designation shall be determined by competitive bidding or by other means generally accepted as standard business practice. In no case shall the deposit or deposits of state funds in the account of any public entity in any credit union exceed at any one time, the total of the reserves and undivided earnings of such credit union or the total sum covered by share and deposit insurance provided by either the national credit union share insurance fund or by a deposit guarantee corporation authorized to issue share and deposit insurance contracts in this state, whichever sum shall be less. In the event that any credit union has been designated as a depository under this chapter, such designation shall continue in force until revoked by the treasurer.

(2) Every credit union designated as a state depository and holding any deposit of the funds of the state of Idaho under the provisions of this section shall, on or before beginning to hold such deposits, file with the state treasurer the affidavit of one (1) of its officers ~~showing the amount of the reserves and undivided earnings of such credit union. Such affidavits shall be effective for the purposes of this section, to and including January 31 next following the date of their filing but no longer, and, on or before that date, if such credit union is to continue as a designated state depository under this section, a like affidavit shall be filed in like manner for the succeeding year. No such credit union shall receive deposits from nor act as depository for the funds of the state of Idaho unless and until an affidavit as is herein required and which still continues in effect is on file with the state treasurer in accordance with this section.~~ containing the following:

(a) The amount of the reserves and undivided earnings of such credit union; and

(b) A certification that such credit union is not currently engaged in and will not for the duration of its designation as a state depository engage in a boycott of any individual or company because the individual or company:

1           (i) Engages in or supports the exploration, production, utilization,  
2           transportation, sale, or manufacture of fossil fuel-based  
3           energy, timber, minerals, hydroelectric power, nuclear energy, or  
4           agriculture; or

5           (ii) Engages in or supports the manufacture, distribution, sale,  
6           or use of firearms, as defined in section 18-3302(2)(d), Idaho  
7           Code.

8           (3) Upon receipt of the affidavit pursuant to subsection (2) of this  
9           section, the state treasurer shall determine, subject to the uniform prudent  
10           investor act, chapter 5, title 68, Idaho Code, whether to maintain deposits  
11           with such credit union. Such affidavits shall be effective for the purposes  
12           of this section, to and including January 31 next following the date of their  
13           filing but no longer, and, on or before that date, if such credit union is to  
14           continue as a designated state depository under this section, a like affi-  
15           davit shall be filed in like manner for the succeeding year. No such credit  
16           union shall receive deposits from or act as depository for the funds of the  
17           state of Idaho unless and until the affidavit required pursuant to this sec-  
18           tion is on file with the state treasurer in accordance with this section. The  
19           state treasurer shall revoke the state depository designation of any credit  
20           union determined by the state treasurer to be currently engaged in any activ-  
21           ities prohibited by this section.

22           (4) Subsection (2)(b) of this section shall not apply to a state deposi-  
23           tory designation issued by the state treasurer if the state treasurer deter-  
24           mines the requirements of subsection (2)(b) of this section would be incon-  
25           sistent with the constitutional or statutory duties of the state treasurer  
26           or would be contrary to the business needs of the state of Idaho and prevent  
27           the state of Idaho from fulfilling its legal duties or obligations.

28           (5) The state treasurer shall revoke the state depository designation  
29           of any credit union determined by the state treasurer to be currently engaged  
30           in any activities prohibited by this section. In determining if a credit  
31           union has engaged in activities prohibited by this section, the state trea-  
32           surer shall rely only upon publicly available statements or information made  
33           by any person authorized to speak on behalf of the credit union or in the  
34           credit union's official external communications. Prior to any such revo-  
35           cation of a state depository designation, the state treasurer shall provide  
36           the credit union with sixty (60) days' prior written notice identifying the  
37           specific prohibited activities at issue and providing the credit union the  
38           opportunity to refute in writing having engaged in the specified prohibited  
39           activities. A decision by the treasurer revoking a depository designation  
40           may be appealed by the credit union to district court within twenty-eight  
41           (28) days of the treasurer's decision, and the reviewing court shall review  
42           the appeal under the standard for appeals set forth in section 67-5279, Idaho  
43           Code.

44           ~~(3)~~ (6) The state treasurer is authorized in his or her discretion and  
45           from time to time to negotiate for the payment to designated state deposi-  
46           tories of reasonable compensation for services rendered in acting as such  
47           depositories. The method and/or rate of such compensation and  
48           the terms and conditions thereof shall be fixed by the state treasurer af-  
49           ter such negotiation, which may include the calling of bids for specific ser-  
50           vices. All bids received, whether by a formal bidding process or by negotia-

tion, and the compensation fixed by the treasurer, which shall be in the form of a written agreement, shall be a matter of public record.

(7) For the purposes of this section, a boycott means that the credit union, without a reasonable business purpose, refuses to offer financial services to an individual or organization, terminates business with an individual or organization, or takes another action that is intended to penalize, inflict economic harm on, or limit commercial relations with an individual or organization because the individual or organization:

(a) Engages in a particular business sector;

(b) Engages in a particular business sector and does not commit or pledge to meet standards beyond applicable federal and state law; or

(c) Does business with an individual or organization that engages in a particular business sector.

(8) For purposes of this section, reasonable business purpose means any purpose directly related to:

(a) Promoting the financial success or stability of a financial institution;

(b) Mitigating risk to a financial institution;

(c) Complying with legal or regulatory requirements; or

(d) Limiting liability of a financial institution.

SECTION 2. That Section 67-2739, Idaho Code, be, and the same is hereby amended to read as follows:

67-2739. DESIGNATION OF DEPOSITORY -- REPORTING OF CAPITAL AND SURPLUS. (1) The state treasurer shall designate institutions qualified under this chapter as a state depository or depositories. Such designation shall be determined by competitive bidding or by other means generally accepted as standard business practice. In no case shall the deposit or deposits of state funds in any state depository above the total covered by federal insurance exceed at any one time, in the aggregate, the total of the capital and surplus of such state depository. In the event that any bank has been designated as a depository under this chapter, such designation shall continue in force until revoked by the treasurer.

(2) Every banking corporation or national banking association designated as a state depository and holding any deposit of the funds of the state of Idaho under the provisions of this section shall, on or before beginning to hold such deposits or the effective date of this act, whichever shall be sooner, file with the state treasurer, the affidavit of one of its officers showing the amount of the capital stock and surplus of such association or corporation. In the event that such corporation or association has such an affidavit on file with the state treasurer on the effective date of this act, such affidavit or affidavits shall satisfy the requirement of this section until January 31 of the year next following the effective date of this act. Affidavits shall be effective for the purposes of this section for a period of one (1) year following the date of their filing. If such corporation or association is to continue as a designated state depository under this section, a like affidavit shall be filed in like manner for the succeeding year, on or before the date specified by the state treasurer. No such corporation or national banking association shall receive deposits from nor act as depository for the funds of the state of Idaho unless and until an affidavit

1 ~~as is herein required and which still continues in effect is on file with the~~  
2 ~~state treasurer in accordance with this section.~~ containing the following:

3 (a) The amount of the capital stock and surplus of such association or  
4 corporation; and

5 (b) A certification that such association or corporation is not cur-  
6 rently engaged in, and will not for the duration of its designation as a  
7 state depository engage in, a boycott of any individual or company be-  
8 cause the individual or company:

9 (i) Engages in or supports the exploration, production, utiliza-  
10 tion, transportation, sale, or manufacture of fossil fuel-based  
11 energy, timber, minerals, hydroelectric power, nuclear energy, or  
12 agriculture; or

13 (ii) Engages in or supports the manufacture, distribution, sale,  
14 or use of firearms, as defined in section 18-3302(2)(d), Idaho  
15 Code.

16 (3) Upon receipt of the affidavit pursuant to subsection(2) of this  
17 section, the state treasurer shall determine, subject to the uniform prudent  
18 investor act, chapter 5, title 68, Idaho Code, whether to maintain deposits  
19 with such banking corporation or national banking association. In the event  
20 that such corporation or association has such an affidavit on file with the  
21 state treasurer on the effective date of this section, such affidavit or  
22 affidavits shall satisfy the requirement of this section until January 31  
23 of the year next following the effective date of this section. Affidavits  
24 shall be effective for the purposes of this section for a period of one (1)  
25 year following the date of their filing. If such corporation or association  
26 is to continue as a designated state depository under this section, a like  
27 affidavit shall be filed in like manner for the succeeding year, on or before  
28 the date specified by the state treasurer. No such corporation or national  
29 banking association shall receive deposits from or act as depository for the  
30 funds of the state of Idaho unless and until the affidavit required pursuant  
31 to this section is on file with the state treasurer in accordance with this  
32 section.

33 (4) Subsection (2) (b) of this section shall not apply to a state deposi-  
34 tory designation issued by the state treasurer if the state treasurer deter-  
35 mines the requirements of subsection (2) (b) of this section would be incon-  
36 sistent with the constitutional or statutory duties of the state treasurer  
37 or would be contrary to the business needs of the state of Idaho and prevent  
38 the state of Idaho from fulfilling its legal duties or obligations.

39 (5) The state treasurer shall revoke the state depository designation  
40 of any banking corporation or national banking association determined by the  
41 state treasurer to be currently engaged in any activities prohibited by this  
42 section. In determining if a banking corporation or national banking as-  
43 sociation has engaged in activities prohibited by this section, the state  
44 treasurer shall rely only upon publicly available statements or information  
45 made by any person authorized to speak on behalf of such corporation or asso-  
46 ciation or in the corporation or association's official external communica-  
47 tions. Prior to any such revocation of a state depository designation, the  
48 state treasurer shall provide the banking corporation or national banking  
49 association with sixty (60) days' prior written notice identifying the spe-  
50 cific prohibited activities at issue and providing the banking corporation

1 or national banking association the opportunity to refute in writing having  
 2 engaged in the specified prohibited activities. A decision by the treasurer  
 3 revoking a depository designation may be appealed by the banking corpora-  
 4 tion or national banking association to district court within twenty-eight  
 5 (28) days of the treasurer's decision, and the reviewing court shall review  
 6 the appeal under the standard for appeals set forth in section 67-5279, Idaho  
 7 Code.

8 ~~(3)~~ (6) The state treasurer is authorized in his or her discretion and  
 9 from time to time to negotiate for the payment to designated state deposito-  
 10 ries of reasonable compensation for services rendered in acting as such de-  
 11 positories. The method and/or rate of such compensation and the terms and  
 12 conditions thereof shall be fixed by the state treasurer after such nego-  
 13 tiation, which may include the calling for bids for specific services. All  
 14 bids received, whether by a formal bidding process or by negotiation, and the  
 15 compensation fixed by the treasurer, which shall be in the form of a written  
 16 agreement, shall be a matter of public record.

17 (7) For the purposes of this section, a boycott means that the banking  
 18 corporation or national banking association, without a reasonable business  
 19 purpose, refuses to offer financial services to an individual or organiza-  
 20 tion, terminates business with an individual or organization, or takes an-  
 21 other action that is intended to penalize, inflict economic harm on, or limit  
 22 commercial relations with an individual or organization because the indi-  
 23 vidual or organization:

24 (a) Engages in a particular business sector;

25 (b) Engages in a particular business sector and does not commit or  
 26 pledge to meet standards beyond applicable federal and state law; or

27 (c) Does business with an individual or organization that engages in a  
 28 particular business sector.

29 (8) For purposes of this section, reasonable business purpose means any  
 30 purpose directly related to:

31 (a) Promoting the financial success or stability of a financial insti-  
 32 tution;

33 (b) Mitigating risk to a financial institution;

34 (c) Complying with legal or regulatory requirements; or

35 (d) Limiting liability of a financial institution.

36 SECTION 3. An emergency existing therefor, which emergency is hereby  
 37 declared to exist, this act shall be in full force and effect on and after  
 38 July 1, 2023.