

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1174

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1174

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1174

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-18-05

Tape Number	Side A	Side B	Meter #
1		x	275---- end.

Committee Clerk Signature



Minutes:

**Chairman Keiser:** Opened the hearing on HB1174. RE: the final note on this bill; depending on the size of appropriations, if it's greater than \$5000, it will be referred to Appropriations Committee with our action.

**Bob Entringer, Assistant Commissioner, Dept of Financial Institutions:** Appeared in support of HB1174. (See Attached Testimony)

**Rep Ekstrom:** In terms of stored value cards, you couldn't affect the cards that Target sells as gift cards?

**Entringer:** It wouldn't affect those, because those gift cards are only allowed to be used at Target & that's considered a closed system. As long as it's a closed system it can only be used at that store, it's not a money transmission.

**Rep Boe:** How about where you buy a gift card issued by a mall?

**Entringer:** If it can be used at various merchants, it's an open system & would be considered a transmission of money and that mall would have to register it as such.

**Rep Kasper:** I've heard some complaints about what Rep Boe asked about the gift cards from malls, whereby they begin to lose their value over a period of time. Are you familiar with that and if so does this bill allow or prohibit that?

**Entringer:** This bill doesn't address that issue at all, typically, when you buy a money order, it says on the back that it will be reduced in value after a number of years. That would be a contractual obligation.

**Rep Kasper:** If I gave you a \$100 & you gave me piece of paper that you promised to give me back my money upon my request & if I waited 10 yrs & asked for my \$100 back, why shouldn't I get my money back?

**Entringer:** If the contract that you entered into provided for that, I don't know how you would argue that.

**Rep Kasper:** Couldn't we statutorily, in ND, prohibit that?

**Entringer:** Yes, but we don't right now.

**Rep Dosch:** Can you give us an overview (in laymen's terms) of this bill, what you're trying to accomplish? Is it to have your utilities pd by someone, is this with Internet bill pay?

**Entringer:** We're trying to drag the sale of checks act into the 21st Century by providing for the electronics means that are out there today, example: you could go to Cashwise & pay your Qwest bill & they would give you a receipt & electronically transfer to Qwest. That would be allowed under this bill; currently if they want to do that, we make them license as a collection agency.

**Rep Dosch:** Is the proposed bond of \$150,000 adequate? Also, when you're authorizing Cashwise (a business), are you giving them so much money/month or giving them authority to automatically deduct from my checking account?

**Entringer:** It is not deducted automatically, you are just walking in with cash & making a payment to them & they would transmit it to the business. The bond does allow the commissioners to increase the bond every \$500,000. Any licensee will have to have permissible investments equal to the outstanding payment instruments, including bill payments.

**Rep Kasper:** If I'm talking to a company in California & I decide I want to purchase something from them (assuming it's legal) & I give them my bank acct # & routing # & give them permission to debit my bank account. Is there anything in here that would prohibit me from doing transactions like that?

**Entringer:** No, that isn't addressed in this bill.

**Rep Ekstrom:** How do the pay day loan folks fit into this?

**Entringer:** They'd probably ask to be licensed as an authorized delegate.

**Rep Kasper:** Would they need a 2nd license?

**Entringer:** Western Union would be a licensed money transmitter & they'd tell us if a pawn shop is an authorized delegate, it's not another license.

**Rep Ekstrom:** I know at least 1 in Fargo that's already with a Western Union.

**Entringer:** If they're doing that now, they shouldn't be.

**Rep Nottestad:** Back to collections @ a grocery store payment to a utility. If there's a drop box for payments, do they need to be licensed for that?

**Entringer:** No, the key is that they electronically transfer the money.

**Rep Nottestad:** What about the amendments?

**Entringer:** It has to do with language that Legislative Council inserted.

**Ezra Lavine, Counsel to the Non-bank Funds Transmitters Group (Group):** Appeared in support of HB1174 (See attached testimony)

**Rep Kasper:** What is the typical fee to money transmitters?

**Lavine:** It depends (on lawyers maybe) on the type of service you want or get. 1st day service would be more money then 3 day service. Also, you can get fixed, variable or exchange rate, or you'd pay more for more words; another variable is the number of countries, but it's usually \$10.00 or less.

**Rep Kasper:** If I wanted to pay my utility bill from Fargo to Minneapolis & get it there in 3-4 days .... \$50.00?

**Lavine:** No

**Rep Dosch:** How does this tie in with the Federal Wire Act as it is now?

**Lavine:** Not from the Federal Government, but as a non-bank representative to the Treasury Dept Bank Secrecy Act. They work together very nicely. The Bank Secrecy Act should really be called the Bank & Non Bank Record Keeping & Reporting.

**Rep Kasper:** What does this bill do to protect the privacy of the person remitting their everyday transactions? Who has access to the info without their knowledge?

**Lavine:** Under this bill, nobody does ... no cust info is submitted to the dept.

**Chairman Keiser:** Checked and there was no further testimony in favor or opposition to HB1174.

**Rep Ekstrom:** made the motion to "Adopt the amendments on HB1174".

Page 5  
House Industry, Business and Labor Committee  
Bill/Resolution Number 1174  
Hearing Date 1-18-05

**Rep Johnson: seconded the motion.**

**Rep Dosch: made the motion to "Do pass as amended & rereferred to Appropriations"**

**Vote: Yes 14      No 0      Absent 0      Rep Dosch will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/21/2005

Amendment to: HB 1174

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>		\$0		\$32,790		\$75,648
<b>Expenditures</b>						
<b>Appropriations</b>		\$0		\$193,742		\$159,881

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would not have any fiscal impact on the general fund. Fiscal impact would affect the Department of Financial Institutions regulatory fund 242.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Revenue figures would come from license fees and examination fees for both biennium. The increase in examination fees for the second biennium is a result of examinations of the remainder of licensees which were not completed in the first biennium.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

All expenses are included the attached appropriations.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The Department has attached an appropriation to the bill. The appropriation includes one FTE and operating expense. The first biennium operating expense would include a one time enhancement to the Department records management IT program. The enhancement would add the money transmitter's licensee to the existing program. Attached worksheet provides estimated expenditures and revenue.

2005 – 2007

Salary	\$ 90,199
Operating	\$103,543



2007 - 2009

Salary	\$97,708
Operating	\$62,173

**Name:** Joan M Becker  
**Phone Number:** 701-328-9958

**Agency:** Department of Financial Institutions  
**Date Prepared:** 01/24/2004

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/03/2005

Bill/Resolution No.: HB 1174

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

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	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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Expenditures						
Appropriations		\$0		\$193,742		\$159,881

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All expenses are included the attached appropriations.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The Department has attached an appropriation to the bill. The appropriation includes one FTE and operating expense. The first biennium operating expense would include a one time enhancement to the Department records management IT program. The enhancement would add the money transmitter's licensee to the existing program. Attached worksheet provides estimated expenditures and revenue.

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Operating \$103,543

2007 – 2009

Salary \$97,708  
Operating \$62,173

**Name:** Joan M Becker  
**Phone Number:** 328-9958

**Agency:** Dept of Financial Inst  
**Date Prepared:** 01/10/2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1174

Page 1, line 14, remove "and", remove the overstrike over ";", and after "51-17" insert "13-08 and 13-09"

Page 3, line 10, after "transfer." insert "Notwithstanding any other provision of law, 'Money transmission' also includes bill payment services not limited to the right to receive payment of any claim for another."

Page 10, line 16, after "state" remove "for a term of one year"

Page 15, remove line 16

Renumber accordingly.

Date: 1-18-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1174

House

**INDUSTRY, BUSINESS AND LABOR**

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Adopt Amendments*

Motion Made By *Rep. Ekstrom*      Seconded By *Rep. Johnson*

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigesaa					

Total (Yes) *14*      No *0*

Absent *0*

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 1-18-05

Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1174

House **INDUSTRY, BUSINESS AND LABOR** Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass As Amended & refer to Approps*

Motion Made By *Rep. Dosch* Seconded By *Rep. Kasper*

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) *14* No *0*

Absent *0*

Floor Assignment *Rep. Dosch*

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1174: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1174 was rereferred to the **Appropriations Committee**.

Page 1, line 14, remove "and", remove the overstrike over the overstruck comma, and after "~~51-17~~" insert "13-08, and 13-09"

Page 3, line 10, after the underscored period insert "Notwithstanding any other provision of law, "money transmission" also includes bill payment services not limited to the right to receive payment of any claim for another."

Page 10, line 16, remove "for a term of one year"

Page 15, remove line 16

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1174




2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1174  
FTE for Dept. of Financial Institutions

House Appropriations Full Committee

Conference Committee

Hearing Date February 1, 2005

Tape Number	Side A	Side B	Meter #
1	X		#0 - #43.3
Committee Clerk Signature			

Minutes:

**Rep. Ken Svedjan, Chairman** opened the hearing and roll call was taken.

**Rep. George Keiser** addressed the committee and introduced HB1174 that was re-referred to appropriations from the Industry, Business and Labor Committee. This bill is an attempt to bring the Dept. of Financial Institutions in line with the federal standards that have been changed relative to the regulations of Financial Institutions. This deals with the area of money transmissions without a license in this state and addresses who can transmit money and under what conditions. The appropriations attached to it regards a FTE position.

**Rep. Ken Svedjan, Chairman** asked for clarification on the fiscal note regarding the revenues and the expenditures.

**Rep. Bob Skarphol** explained that the expenditures are associated with an FTE that will license the entities whom they regulate.

**Rep. Ron Carlisle** explained that the revenues come from the entities that they regulate through licensing fees.

**Rep. Ken Svedjan, Chairman** asked if there were sufficient funds to cover the expended amounts.

**Rep George Keiser** answered yes, there were sufficient funds and that the department sets the rates based on the expenditures so they will always have enough to cover the costs to them.

**Rep. Ken Svedjan, Chairman** summarized the fiscal note by saying there is revenue of \$32 thousand and the net will be about \$160,000 that will come out of the fund of the licensing fees which they set the rates on based on their expenditures.

**Rep. Ole Aarsvold** commented that page 10 is very specific about the licensing fee for renewal but doesn't say what the fee is for the initial licensing and are these fees set by the Banking Board or by statute.

**Rep George Keiser** answered that the renewal fee is the same as the initial license fee and that the fees are set by statute.

**Rep. Bob Skarphol** asked Mr. Keiser to define a "Money Transmitter."

**Rep George Keiser** answered that places like Payday Loans are money transmitters, but that when you buy a credit card that can only be used in the mall or a certain store, those are also money transmitters.

**Rep. Jeff Delzer** asked why they felt the need to include the civil penalty

**Rep George Keiser** answered that there was a lot of concern associated with money transmitters and the civil penalties are set to be significant so that people will take them seriously.

**Rep. Bob Skarphol** is this FTE and additional FTE or the one that is mentioned in the department's budget. (meter #6.7)

**Rep. Eliot Glassheim** answered that according to this sheet, the FTE in the budget is for a Minot Field examiner so this FTE is not the one in the budget, but there is an increase of \$550,000 in the total budget and I don't know what that is for. Consensus seems to be salaries.

**Rep. Bob Skarphol** requested that the Department needs to answer the questions concerning the FTE's. (meter #9.2)

**Mr. Tim Karsky** from the Department of Financial Institutions reviewed the bill and commented that the state does not currently regulate money transmitters and we need to start doing that. HB1174 allows for this.

**Rep. Ron Carlisle** asked if the additional FTE needed for this is already in the Governor's Budget.

**Mr. Tim Karsky** answered no and further explained that this would provide for the office space, the computer, the training, and the salary for this person who will deal with the 45% growth per year of money transmitters.

**Rep. Al Carlson** asked what the problem was that this was needed.

**Mr. Tim Karsky** answered that the secrecy act is a big part of it. We need to be able to trace who is wiring money in and out of the state. Another part of it is these store credit cards. We want to make sure that these cards are backed by insured financial institutions.

**Rep. Mike Timm, Vice Chairman** asked what the responsibilities of the FTE will be

**Mr. Tim Karsky** answered that even without this bill we would have had to ask for another FTE to handle the extensive rise in consumer services. But this person would spend about 75% of

there time with the money transmitters and then begin looking into regulating specific institutions.

**Rep. Eliot Glassheim** asked how the department will pay for the FTE and the operating costs associated with this. (meter #21.6)

**Mr. Tim Karsky** answered that the consumer division is self-supporting through application fees, investigation fees, and examination fees.

**Rep. Ken Svedjan, Chairman** asked what the status was of the fund for this

**Mr. Tim Karsky** answered that at this time it is.

**Rep. David Monson** asked if the revenues include any bank money from returned check fees or anything like that.

**Mr. Tim Karsky** answered that the only fees the banks pay are their fees for any examinations we do for them.

**Rep. David Monson** asked if there were any funds from Homeland Security that may help to cover this since this helps the fight against terrorism.

**Mr. Tim Karsky** answered that they have never checked into this possibility but as of now, no there are no Homeland Security moneys involved.

**Rep. Ken Svedjan, Chairman** asked if this bill has anything to do with the other bill around that deals with gift certificates and their expiration dates.

**Mr. Tim Karsky** answered that they are not related now but that in the future these things will all have to come together.

**Rep. Ole Aarsvold** asked if there was any evidence that these money transmitters were laundering money.

**Mr. Tim Karsky** answered that there has been examples of this happening elsewhere but hopefully not here.

**Rep. Ken Svedjan, Chairman** summarizes by saying that they are expecting the money in revenues to cover their costs and the status of there fund is stable and sufficient.

**Rep. Ron Carlisle** moved a Do Pass on HB1174

**Rep. Tom Brusegaard** seconded. (meter #26.9)

**Rep. Jeff Delzer** commented that the civil penalty put in place here bothers him because he sees a pattern of putting these on everything and what is bad about that is that you have the same person being the examiner, the collector and the recipient of the civil penalty, plus it puts the burden of proof on the person who is paying the fine so they have to prove they are innocent instead of the state having to prove they are wrong. And, the civil penalty is as large as a criminal penalty.

**Rep. Ken Svedjan, Chairman** asked Mr. Karsky to address the issue of the civil penalty being the same as the criminal fine.

**Mr. Tim Karsky** answered that the language for the civil penalty here is the same language they use for other statutory regulations and they do use these fines but mostly we fine for non licensed groups.

**Rep. Jeff Delzer** commented that there were two things he would like the committee to consider: (1) to lower the civil penalty so that it is not the same as the criminal, or (2) go ahead and take the fund off the bill and put it toward the general fund or somewhere so at least the department is not receiving these funds. (meter #29.4)

**Rep. Ken Svedjan, Chairman** clarified that what the department is trying to do with these civil penalties is to standardize these with what is in place for other kinds of money brokers and Payday loans etc.

**Rep. Eliot Glassheim** asked if they would be likely to use an order to cease and desist before they fine.

**Mr. Tim Karsky** answered that the first action would be to try and get the institution licensed and if they won't, then we go to the cease and desist order and then if there is still no response then we fine them with the civil penalty.

**Rep. Jeff Delzer** moved a substitute motion to replace the words "financial institution regulatory fund" on page 18, line 12 with "general fund."

**Rep. Ken Svedjan, Chairman** clarified motion by reading page 18 with change.

**Rep. Al Carlson** seconded.

**Rep. Blair Thoreson** noted that there is a second version for this bill that says something different for what you just read. This is an engrossed bill. The line you need is page 18 lines 9 and 10.

**Rep. Ken Svedjan, Chairman** corrected the motion to "page 18, lines 9 and 10" but the nature of the amendment would be the same.

**Rep. Clark Williams** asked Mr. Karsky what impact this will have on the department if we change this to the general fund.

**Mr. Tim Karsky** answered that it would be inconsistent from the other 3 or 4 licenses that we have because the language is the same there as it is here. Plus if we wind up in a lengthy litigation with someone on civil penalties or a cease and desist process we would have to find a

way to recover those costs and we would have to go back to the emergency commission to find the money to put back in our budget to offset our costs of enforcing cease and desist orders.

**Rep. Bob Skarphol** asked if the Financial Institution's Regulatory Fund the fund that the department runs from. (meter #36.4)

**Mr. Tim Karsky** answered yes.

**Rep. Bob Skarphol** commented that while he agreed that no entity should be able to impose fees that are to benefit themselves, he was not sure putting it into the general fund is the right mechanism to use. Rep Skarphol would like to see changes in this bill, but is not sure in what capacity.

**Rep. Jeff Delzer** commented that it is the philosophical principal of using the civil penalty to benefit themselves rather than to use the criminal penalty when needed is wrong.

**Rep. Bob Skarphol** says that if we change one we have to change them all and then we have to find another way for them to receive revenues to pay for their costs.

**Rep. Tom Brusegaard** commented that no matter where we put the money, the department is an agency of the state and the state will get the money. Its true of the Board of Podiatry, the Board of Medical Examiners, etc... and in the end these fines will benefit the state.

**Rep. Ron Carlisle** commented that this discussion is where we have slipped over from appropriations into policy discussions.

**Rep. Ken Svedjan, Chairman** called for a voice vote on the amendment to change the fund to the general fund. Motion failed. (meter #40.0)

**Rep. Ken Svedjan, Chairman** called a roll call vote of the Do Pass Motion of HB1174.

Page 8

House Appropriations Committee

Bill/Resolution Number HB1174

Hearing Date February 1, 2005 <sup>19</sup>

Motion carried with a vote of ~~1~~<sup>19</sup> yeas, 2 neas, and 2 absent. Rep. Dosch will carry the bill to the house floor.

**Rep. Ken Svedjan, Chairman** closed the discussion on HB1174. (meter #43.3)



Date: **February 1, 2005**  
Roll Call Vote #: **1**

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB1174**

House Appropriations - Full Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken **DO PASS**

Motion Made By **Rep Carlisle**

Seconded By **Rep Brusegaard**

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glasheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	AB		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew		X
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleason	X		Rep. James Kerzman	AB	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **19** No **2**

Absent **2**

Floor Assignment **Rep Dosch (IBL)**

If the vote is on an amendment, briefly indicate intent:

Re-Referred Bill from IBL - Rep Keiser  
Voice Vote to amend page 18 lines 9-10, Failed.

REPORT OF STANDING COMMITTEE (410)  
February 1, 2005 1:31 p.m.

Module No: HR-21-1558  
Carrier: Dosch  
Insert LC: . Title: .

19  
REPORT OF STANDING COMMITTEE

HB 1174, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)  
recommends **DO PASS** (12 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed HB 1174 was placed on the Eleventh order on the calendar.

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1174

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1174

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 2-28-05

Tape Number	Side A	Side B	Meter #
2		xxxx	2020

Committee Clerk Signature

*Lisa VanBerkom*

Minutes: **Chairman Mutch opened the hearing on HB 1174. All Senators were present.**

**HB 1174 relates to financial institutions regulatory fund.**

**Bob Entringer**, Department of Financial Institutions, introduced the bill. See written testimony.

**Senator Nething:** What's the problem?

**Bob:** What it allows is, a stored value card. It will also allow bill payment services, which many of the companies want to conduct in North Dakota. At the present time we are letting them do that, but we make them license as a collection agency, which really doesn't make any sense. They are not a collection agency. All they are doing is accepting payment for Qwest, for example, and sending that money on to them.

**Chairman Mutch:** Why wouldn't you just use a credit card?

**Bob:** Many of the people that would use these services are unbanked. They will use money orders as their banking, they don't have credit cards. They are not eligible.

**Senator Heitkamp:** The card doesn't work unless you have money in there, right?

**Bob:** Exactly.

**Chairman Mutch:** Or a letter of credit from the bank.

**Senator Krebsbach:** Do you currently license Western Union, under that application?

**Bob:** Yes, we do.

**Senator Klein:** We have laws for checks, so now we need a law for the stored value card.

**Bob:** Yes.

**Chairman Mutch:** Is the cost of licenser going to offset the appropriation?

**Bob:** Yes. It will.

**Senator Krebsbach:** Does the fact that a post office sells money orders, does that have anything to do with this, for any reason?

**Bob:** They are exempt because they are a federal agency.

**Senator Klein:** There is going to be so much action in this side of the business that we need a full time employee?

**Bob:** This person will probably be dedicated solely to the money transmitter, until we get applications and the data base converted. After that, that person will not only be dealing with this.

**Senator Klein:** Every time you swipe the card, there is a fee?

**Bob:** The fee from the money transmitter will be up front. The retailer could also charge a fee. If you go to an ATM, you will pay a fee on it.

**Tim Karsky,** Commissioner of the Department of Financial Institutions, spoke in support of the bill.

Page 3

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1174

Hearing Date 2-28-05

**Tim:** Another reason that this bill is before you is that other departments, nation wide are getting to be in compliance with the Bank Secrecy Act. Right now, there is, we are such a border state that nobody is monitoring the wire activity in and out of North Dakota. This would give us the ability to look at some of that activity and those people that do wires, will have to be registered or licensed with us.

**There were no questions. The hearing was closed.**

**No action was taken.**

**The committee met on 3-15-05 to take action on this bill. Tape 1, side B Meter 3000**

**Senator Klein moved a DO PASS TO APPROPRIATIONS. Senator Espegard seconded.**

**Roll Call Vote: 7 yes. 0 no. 0 absent.**

**Carrier: Senator Espegard**

Date: 3-15-05  
Roll Call Vote #: ,

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1174

Senate Industry, Business, and Labor

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass to Approp.

Motion Made By

Klein

Seconded By

Espgaard

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espgaard	X				
Senator Nething	X				

Total (Yes)

7

No

0

Absent

0

Floor Assignment

Espgaard

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 15, 2005 12:48 p.m.

**Module No: SR-47-4996**  
**Carrier: Espegard**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1174, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1174 was rereferred to the Appropriations Committee.**



2005 SENATE APPROPRIATIONS

HB 1174

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1174

Senate Appropriations Committee

Conference Committee

Hearing Date March 23, 2005

Tape Number	Side A	Side B	Meter #
1	a		0

Committee Clerk Signature

Minutes:

**Chairman Holmberg** opened the hearing on HB 1174 with roll call and announcements.

**Tim Karsky, Director of Financial Institutions**, testified in support of HB 1174 discussing the fiscal note and indicating that the bill affects those institutions where money orders are licensed, electronic money is handled, and funds are stored on cards. The bill requests an additional position to help regulate the money transmitters. The individual will eventually be performing examinations for payday, collection agency examinations and money lender examinations and all of those entities will pay for those services. The individual will examine the entities, review the entity each year and since the patrol act, it enables the institution to regulate money coming into the country.

**Senator Bowman** asked what the driving force is behind the regulations. The response is that one reason is the patrol act which regulates money coming into the country and it is a consumer protection issue.

Page 2

Senate Appropriations Committee

Bill/Resolution Number 1174

Hearing Date March 23, 2005

**Senator Tallackson** asked where the office is and how large it is. The response was in the

Dakota Collectibles Building and it is 3500 sq ft.

**Senator Kilzer** asked if this is part of the Executive Budget. The response was no it was not.

Chairman Holmberg closed the hearing on HB 1174.

**Senator Mathern moved for a DO PASS, Senator Fischer seconded. No Further discussion**

**took place. A roll call vote was taken. The motion carried. With 12 yes, 0 no and 3 absent.**

Date 3/23/05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 1174

Senate SENATE APPROPRIATIONS

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Mather

Seconded By

Fischer

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER		
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG			SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD					
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes)

12

No

0

Absent

3

Floor Assignment

1B2

Espegard

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
March 23, 2005 11:17 a.m.

Module No: SR-53-5860  
Carrier: Espesgard  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1174, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).  
Engrossed HB 1174 was placed on the Fourteenth order on the calendar.

**2005 TESTIMONY**

HB 1174

**HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE**

**January 18, 2005**

**COMMENTS OF NON-BANK FUNDS TRANSMITTERS GROUP IN  
SUPPORT OF HOUSE BILL NO. 1174**

Mr. Chairman and members of the Committee -- my name is Ezra Levine and I am counsel to the Non-Bank Funds Transmitters Group ("Group"), which is composed of the leading national companies which sell money orders, travelers checks, foreign denomination drafts and transmit funds. These companies are: Western Union Financial Services, Inc., MoneyGram International, Travelex Americas, American Express Travel Related Services, RIA Financial Services, Comdata Network, Inc. and Sigue Corporation.

House Bill No. 1174 is modern safety and soundness legislation which will help to assure that non-bank check issuers and money transmitters are operated in a safe and sound manner. Forty-five states, the District of Columbia and Puerto Rico now license non-bank money transmitters. This legislation is similar to that adopted in Wyoming, Idaho, Oregon, Maine, New Jersey, North Carolina, Washington, D.C., Minnesota, Indiana, and Tennessee and has its genesis in the model law legislation outline of the Money Transmitters Regulators Association ("MTRA"), the organization of state banking department regulators.

The money transmission business is based on trust. Consumers buy money orders and travelers checks and transmit funds with companies because they believe those companies are safe and sound and the instruments they provide and the funds they transmit will be good. The Group believes that effective licensing helps to maintain consumer trust and the viability of the businesses by helping to ensure that all non-bank funds transmitters are operated on a sound fiscal basis so that consumer funds are not impaired.

In short, over the last ten years, those states which have adopted non-bank licensing laws similar to that embodied in House Bill No. 1174 have had favorable experiences in terms of ease of administration and flexibility. House Bill No. 1174 is in the public interest. Therefore, the Group respectfully requests that the Committee approve House Bill No. 1174.



1-18-2005

TESTIMONY FOR HOUSE BILL NO. 1174 WITH AMENDMENTS

House Industry, Business, and Labor Committee

Testimony of Robert J. Entringer, Assistant Commissioner, Department of Financial Institutions in support of House Bill No. 1174.

Chairman Keiser and members of the House Industry, Business, and Labor Committee, I am Bob Entringer, Assistant Commissioner of the Department of Financial Institutions. I am appearing before you to testify in support of House Bill No. 1174 which was introduced at the request of the Department of Financial Institutions.

***BACKGROUND***

I'd like to begin with a bit of background on why we are introducing this legislation. For the last couple of years we have debated the issue of "stored value cards" with different vendors as to whether the acceptance of money in exchange for a stored value card constituted the taking of a deposit, which is a core banking function, and whether it could be done by an entity other than a bank. The issue of stored value cards we had concluded to be the taking of a deposit. However, when we began looking at this bill, it occurred to us that a stored value card is really no different than a money order, it is simply a newer more efficient medium of a money order.

Another issue we have faced is whether a company can accept bill payments for another, such as a convenience store accepting bill payments for Qwest, and transmitting those payments to Qwest electronically. Based on the advice of our legal counsel we have required companies accepting bill payment for another to license as a collection agency. This bill would resolve these two issues and allow a licensed money transmitter to offer these services directly or through an authorized delegate. This proposed law will also eliminate the sale of checks act which was introduced into law in 1973 and only two of the 17 sections have been amended since.. Essentially we are modernizing the law by repealing the sale of checks act and bringing this bill before you.

### ***MONEY TRANSMITTER BILL***

Rather than go through the entire bill I would like to highlight some of the key areas for you. Beginning on page 2 the definitions include an authorized delegate (lines 7-9) which is an entity which contracts with the licensee to offer money transmission services. For example a convenience store could be an authorized delegate of Western Union. The licensee must include in its application a list of the proposed authorized delegates for our records.

Electronic instrument is defined on page 2, lines 19-23. This would be the "stored value card" which I discussed earlier in my testimony. In discussing this issue and whether it is the taking of a deposit I analogized it to a money order

which is now in an electronic form. As I alluded to earlier we are attempting to modernize to sale of checks act to reflect how money is transmitted in today's world.

Monetary value and money transmission are defined on page 3, lines 5-10. Monetary value is the medium of exchange, whether or not redeemable in money. Money transmission is the essence of the bill; it is the sale or issuance of payments instruments (defined on lines 17-22), stored value (defined on page 4, line 21), or of receiving money or monetary value for transmission to another location. One of the amendments being offered expands the definition of money transmitter and adds language to include bill payment services; this amendment is added at the request of the industry.

Payment instrument is defined on page 3, lines 17-22 and includes the traditional items such as money orders but goes on to include electronic or written instruments or orders for the transmission of money.

Stored value is defined on page 4, line 21 and means monetary value evidenced by an electronic record.

The statute does include a number of exclusions such as state or federal agencies, *financial institutions*, electronic payment of government benefits and authorized delegates. The license qualifications are set forth on page 5 and closely mirror the type of qualifications for our other licensees. The statute requires a

bond be posted which protects the consumer in the event of the unfaithful performance of the licensee and gives the commissioner the ability to increase the bond for good cause.

The permissible investments are a very important aspect of the bill. The section on page 7 has to do with the licensee maintaining permissible investments of not less than the aggregate face value of the outstanding payment instruments and provides a waiver provision. The bill specifies the type of investments which are eligible for permissible investments. These assets are subject to a statutory trust in favor of North Dakota consumers in case of a licensee's financial impairment. The fact that these assets are subject to the statutory trust underscores the safety and soundness focus of the law.

The next several sections set the application criteria, the application and renewal fees, time frames for acting on an application, renewal application criteria, extraordinary reporting requirements, what constitutes change in control of the licensee, examination authority, and required records.

The authorized delegates section begins on page 14 by setting forth minimum contractual requirements and authorized delegate conduct.

Finally, the last few sections set forth the enforcement capabilities for the department. The department would have the ability to suspend or revoke licenses; suspend or revoke authorized delegates; issue cease and desist orders; assess civil

money penalties; and sets forth criminal penalties for certain violations of the chapter.

***DELAYED EFFECTIVE DATE***

The bill as proposed includes a delayed effective date to allow time to make changes to our records management database, prepare application forms and possible administrative rules, and obtain training. However, many of the companies this bill will affect are already licensed as sellers of checks and they will automatically become money transmitters based on the provision on the bottom of page 18.

***FISCAL NOTE***

This bill also has a fiscal note attached and includes one additional full time equivalent employee. Chairman Karsky, in his testimony before the Senate Appropriations committee last week, advised the committee of the appropriation language in this bill. The fiscal note includes salary and benefits for one FTE, operating expenses including travel, professional development and professional services, and changes to our record management system.

Chairman Keiser and members of the Committee, I would like to thank you for scheduling this hearing this morning as it allowed Mr. Ezra Levine the opportunity to attend this hearing and make his first trip to North Dakota. Mr. Levine has worked with us to introduce this legislation and will testify after I have

concluded. Thank you for the opportunity to testify and I would urge your favorable consideration of House Bill No. 1174. I would be happy to answer any questions you may have.

Thank you.

2-28-2005

TESTIMONY FOR ENGROSSED HOUSE BILL NO. 1174

Senate Industry, Business, and Labor Committee

Testimony of Robert J. Entringer, Assistant Commissioner, Department of Financial Institutions in support of Engrossed House Bill No. 1174.

Chairman Mutch and members of the Senate Industry, Business, and Labor Committee, I am Bob Entringer, Assistant Commissioner of the Department of Financial Institutions. I am appearing before you to testify in support of Engrossed House Bill No. 1174 which was introduced at the request of the Department of Financial Institutions.

**BACKGROUND**

I'd like to begin with a bit of background on why we are introducing this legislation. Currently the Sale of Checks Act allows a company to sell checks which are defined as a check, draft, money order, personal money order or other instrument for the transmission or payment of money. This law was enacted in 1973 and only two of the 17 sections have been amended since that time. This bill will modernize the law by adding activities which are not addressed in the sale of checks law and put North Dakota on par with the 45 other states, the District of Columbia and Puerto Rico which now license money transmitters. Our

Department worked with the Non-Bank Funds Transmitters Group in drafting this legislation and in fact this bill is based on this group's "model act".

### ***MONEY TRANSMITTER BILL***

Rather than go through the entire bill I would like to highlight some of the key areas for you. Beginning on page 2 the definitions include an authorized delegate (lines 7-9) is an entity which contracts with the licensee to offer money transmission services for the licensee. The proposed Engrossed Bill includes certain provisions for the authorized delegate contract which I will discuss later. For example a convenience store could be an authorized delegate of Western Union and offer Western Union's products to consumers at the store. The licensee must include in its application a list of the proposed authorized delegates for our records.

Electronic instrument is defined on page 2, lines 19-23. This could be a device known as a "stored value card" which would allow a consumer to go to a money transmitter or its authorized delegate and obtain a card which the consumer could "load" with money. This card could be used at various retailers or automated teller machines in the same way many of us use a debit card issued by a financial institution. This electronic instrument is the same as a paper money order except now it is in an electronic form. As I alluded to earlier we are attempting to



modernize to sale of checks act to reflect how money is transmitted in today's world.

Monetary value and money transmission are defined on page 3, lines 5-12. Monetary value is the medium of exchange, whether or not redeemable in money. Money transmission is the essence of the bill; it is the sale or issuance of payments instruments (defined on lines 19-24), stored value (defined on page 4, line 23), or of receiving money or monetary value for transmission to another location. The bill was amended in the House to expand the definition of money transmission and added language to include bill payment services; this language was added at the request of the Non-bank Funds Transmitters Group. Bill payment services will allow a licensed money transmitter to accept payments from a consumer for a utility company. For example, the consumer could bring in their utility bill, pay the amount owed to the money transmitter and receive a receipt for the payment. The money transmitter would then electronically send the payment information to the utility company.

Payment instrument is defined on page 3, lines 19-24 and includes the traditional items such as money orders but goes on to include electronic or written instruments or orders for the transmission of money.

Stored value is defined on page 4, line 23 and means monetary value evidenced by an electronic record.

The bill does include a number of exclusions such as state or federal agencies, *financial institutions*, electronic payment of government benefits and authorized delegates. The license qualifications are set forth on page 5 and closely mirror the type of qualifications for our other licensees. The statute requires a bond be posted which protects the consumer in the event of the unfaithful performance of the licensee and gives the commissioner the ability to increase the bond for good cause.

The permissible investments issue is a very important aspect of the bill. The section on page 7 has to do with the licensee maintaining permissible investments of not less than the aggregate face value of the outstanding payment instruments and provides a waiver provision. The bill specifies the type of investments which are eligible for permissible investments. For example if a licensee has \$15,000,000 in outstanding payment instruments they must maintain, in the case of this proposed bill, \$14,850,000 in permissible investments. The difference is the amount of the surety bond the licensee must maintain. These assets are subject to a statutory trust in favor of North Dakota consumers in case of a licensee's financial impairment. The fact that these assets are subject to the statutory trust underscores the safety and soundness focus of the law.

The next several sections set the application criteria, the application and renewal fees, time frames within which our department must act on an application,

renewal application criteria, extraordinary reporting requirements, what constitutes change in control of the licensee, examination authority, and required records.

The authorized delegates section begins on the bottom of page 14 by setting forth minimum contractual requirements and authorized delegate conduct. As you can see we did not get too onerous on what the contract must contain; we simply wanted the contract to appoint the delegate with the authority to engage in money transmission on behalf of the delegate, to prohibit the delegate from authorizing subdelegates, and to give our department supervisory authority. The authorized delegate conduct section is a bit more specific but yet not too onerous.

Finally, the last few sections set forth the enforcement capabilities for the department. The department would have the ability to suspend or revoke licenses; suspend or revoke authorized delegates; issue cease and desist orders; assess civil money penalties; and also sets forth criminal penalties for certain violations of the chapter.

#### ***DELAYED EFFECTIVE DATE***

The engrossed bill as proposed includes a delayed effective date to allow time to make changes to our records management database, prepare application forms and possible administrative rules, and obtain examiner training. However, many of the companies this bill will affect are already licensed as sellers of checks

and they will automatically become money transmitters based on the provision on the bottom of page 18.

Mr. Chairman and members of the Committee, this bill is modern safety and soundness legislation which will help ensure that non-bank check issuers and money transmitters operate in a safe and sound manner. This bill requires licensure and regulation for activities which currently are unregulated and provides protection to North Dakota consumers.

***FISCAL NOTE***

This engrossed bill also has a fiscal note attached and includes one additional full time equivalent employee. The department's budget hearing is scheduled for March 2, 2005, before the Government Operations Division of the House Appropriations committee; Commissioner Karsky will advise the committee of this fiscal note. Commissioner Karsky did inform the Senate Appropriations Committee about this fiscal note during the hearing on the Department's budget in January. The fiscal note includes salary and benefits for one FTE, operating expenses including travel, professional development and professional services, and changes to our record management system.

Chairman Mutch and members of the Committee thank you for the opportunity to testify and I would urge your favorable consideration of Engrossed House Bill No. 1174. I would be happy to answer any questions. Thank you.

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