

2011 HOUSE JUDICIARY

HB 1112

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1112  
January 10, 2011  
12678

Conference Committee

Committee Clerk Signature

*R Penrose*

## Minutes:

Chairman DeKrey: We will open the hearing on HB 1112.

Al Weisbeck, Treasury Services Manager, Bank of ND: Sponsor, support (see attached testimony).

Rep. Delmore: There will still be cases where you will need to mail a hard copy to people. It won't automatically go to electronic.

Al Weisbeck: Yes, this is an option.

Chairman DeKrey: How much money will the Bank save?

Al Weisbeck: We figured around \$4-5,000/year.

Rep. Delmore: How will you make the determination whether you use one method or the other? Will you already have a relationship with the person, so that you know you can send it by electronic means? I am having trouble with email myself, so I just want it made clear that people will have a choice, in particular, if that is the only way they can get the information. How will you determine who you will send electronically and who you send a hard copy to?

Al Weisbeck: We would ask for their email address. If they don't have an email address, then we wouldn't be sending it electronically.

Chairman DeKrey: I would hope that you would give them your email address so it doesn't end up in Junk Mail folder because your address wasn't in their address book. I would hope that the consumer would be made aware to put your email address in his address book.

Rep. Delmore: This is not because I think anything devious is being done here; that really can happen where people legitimately are sent something, but they never receive it because their email address changes.

Rep. Maragos: The word "registered" has been in there all this time, and you say that you have been using regular mail for 35 years. Have you been in violation of the law?

Al Weisbeck: When I came to the Bank, 23 years ago, that was the operation, so I am going to plead ignorance. My predecessor, Ed Sather, that's why I used the term 35 years, since he had been at the Bank for over 35 years, and it's never been used in my timeframe and I talked with the Burleigh County Treasurer, she's never seen it used. I don't know how old this statute is, or when it was added, or it was always in there when they started the pledging process. That's why we are trying to change it.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. What are the committee's wishes.

Rep. Maragos: I move a Do Pass on HB 1112.

Rep. Delmore: Seconded.

**13 YES 0 NO 1 ABSENT**

**DO PASS**

**CARRIER: Rep. Brabandt**

Date: 7/10/11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1112

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman					
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Brabandt

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

**REPORT OF STANDING COMMITTEE**

**HB 1112: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1112 was placed on the  
Eleventh order on the calendar.

2011 SENATE JUDICIARY

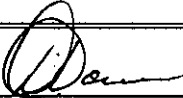
HB 1112

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1112  
2/8/11  
14196

Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

Relating to security for public deposits

## Minutes:

There is attached written testimony

## Senator Nething – Chairman

**Al Weisbeck** – Treasury Services Manager for Bank of ND – See written testimony.

**Senator Nelson** – Asks what the problems with this bill before it came to the Senate.

**Weisbeck** – Stated on the House side there was a question on whether the pledges are forced to receive electronic transmission. He said the answer is no but they would like the option and if the pledge did not have an e-mail address they would continue to mail out a hard copy of the document.

**Senator Sitte** – Wonders if there are security measures in place.

**Weisbeck** – Replies it is a secure e-mail site and a secure bulletin board site.

**Senator Nething** – Asks for the description of the pledge of a security.

**Weisbeck** – Responds it is an investment that the bank would own in its investment portfolio. He describes how a bank pledges securities brought into the bank.

**Senator Nething** – Describes what is being added in the bill and asks what brings about a pledge change.

**Weisbeck** – Explains that anytime a security matures, would be called or a bank chooses to sell that security they could substitute another security of like market value. He says in the Bank of ND system they are responsible as the 3<sup>rd</sup> party custodian. They are not allowed to release a security until the pledge agrees to that. If it's a substitution as long as it's a like value they can conduct the transaction.

**Senator Nething** – Asks about the 7000 documents they mail a year and if there are that many pledge changes.

**Weisbeck** – Replies yes the Bank of ND safe keeps securities for 85 to 90 banks in the state. Those securities total 2.2 billion dollars. He said there are constant buys and sells. Their security system informs them whenever a security is being called.

Opposition – 0

Neutral – 0

**Close the hearing on HB1112**




# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1112  
3/9/11  
Job #15181

Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

Relating to security for public deposits

Minutes:

**Senator Nething – Chairman**

## Committee work

Senator Nething explains that this was an over site by the agency to attach this amendment. He says the way he understands the financial institutions in oil country are not in need of any further deposits due to the influx of money that is being brought up there. The committee would like further information from Robert Entringer, Commissioner of the Dept. of Financial Institutions. They decide to hold off until he can come in to talk to them.

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB1112  
3/21/11  
Job #15779

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to security for public deposits

Minutes:

## Senator Nething – Chairman

Committee discusses the amendment that was brought in. Senator Nething explains a process called "one way sell" in which the money is invested through CDARS fully insured but CDARS does not send a reciprocal deposit back to the financial institution. It allows the public entity to invest its funds and the bank to provide a service.

**Senator Olafson** moves to adopt the amendment

**Senator Nelson** seconds

Verbal vote – all yes

**Senator Olafson** moves a do pass as amended

**Senator Sorvaag** seconds

Roll call vote – 6 yes, 0 no

**Senator Sitte** will carry

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1112

Page 1, line 1, after "21-04-09" insert ", and subsection 1 of section 21-06-07"

Page 1, line 2, remove "security for"

Page 3, line 4, overstrike "reciprocal"

Page 3, after line 10, insert:

**SECTION 2. AMENDMENT.** Subsection 1 of section 21-06-07 of the North Dakota Century Code is amended and reenacted as follows:

1. Counties, cities, school districts, park districts, and townships in this state may invest moneys in their general fund, or balances in any special or temporary fund, in:
  - a. Bonds, treasury bills and notes, or other securities that are a direct obligation of, or an obligation insured or guaranteed by, the treasury of the United States, or its agencies, instrumentalities, or organizations created by an act of Congress.
  - b. Securities sold under agreements to repurchase written by a financial institution in which the underlying securities for the agreement to repurchase are of a type listed above.
  - c. Certificates of deposit fully insured by the federal deposit insurance corporation or by the state.
  - d. Obligations of the state.
  - e. Certificates of deposit fully insured or guaranteed by the federal deposit insurance corporation and placed for the benefit of the public depositor by a public depository through an appropriate ~~reciprocal~~ deposit placement service as determined by the commissioner of financial institutions.

Renumber accordingly

Date: 3/21/11  
 Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1112

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Olafson Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman			Carolyn Nelson		
Curtis Olafson - V. Chairman					
Stanley Lyson					
Margaret Sitte					
Ronald Sorvaag					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Senator

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

*Verbal yes*

Date: 3/21/11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 112

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Olafson Seconded By Senator Sorvaag

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment Senator Sitte

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

**REPORT OF STANDING COMMITTEE**

**HB 1112: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1112 was placed on the Sixth order on the calendar.

Page 1, line 1, after "21-04-09" insert "and subsection 1 of section 21-06-07"

Page 1, line 2, remove "security for"

Page 3, line 4, overstrike "reciprocal"

Page 3, after line 10, insert:

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  - a. Bonds, treasury bills and notes, or other securities that are a direct obligation of, or an obligation insured or guaranteed by, the treasury of the United States, or its agencies, instrumentalities, or organizations created by an act of Congress.
  - b. Securities sold under agreements to repurchase written by a financial institution in which the underlying securities for the agreement to repurchase are of a type listed above.
  - c. Certificates of deposit fully insured by the federal deposit insurance corporation or by the state.
  - d. Obligations of the state.
  - e. Certificates of deposit fully insured or guaranteed by the federal deposit insurance corporation and placed for the benefit of the public depositor by a public depository through an appropriate reciprocal deposit placement service as determined by the commissioner of financial institutions."

Renumber accordingly

2011 TESTIMONY

HB 1112

TESTIMONY TO THE  
HOUSE JUDICIARY COMMITTEE  
HOUSE BILL 1112  
JANUARY 10, 2011

For the record, my name is Al Weisbeck, I am the Treasury Services Manager at Bank of North Dakota and I am here to testify in favor of House Bill 1112.

The purpose of House Bill 1112 is to update Section 21-04-09 of the North Dakota Century Code. We are proposing to delete the word "registered" because in discussions with Public Depositories and bankers in this area, this method of using registered mail to notify the public corporation or the depository financial institution of the pledge change has not been used. Regular mail has sufficed for over the past thirty-five years. Consequently, we are recommending the change reflect the current practice that has been acceptable to all parties for over the past 35 years.

The second change we are proposing is to include "electronic transmission" as an option to notifying the public corporation and the depository financial institution of the pledge change. With today's use of electronic transmission of information, this is the only case where we continue to mail out documents. We mail around 7,000 documents per year in relation to this section of the code. The resources saved, in terms of time and money would be substantial, both for the Bank of North Dakota, as the sender of this information and for the recipients of this information.



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TESTIMONY TO THE  
SENATE JUDICIARY COMMITTEE  
HOUSE BILL 1112  
FEBRUARY 8, 2011

For the record, my name is Al Weisbeck, I am the Treasury Services Manager at Bank of North Dakota and I am here to testify in favor of House Bill 1112.

The purpose of House Bill 1112 is to update Section 21-04-09 of the North Dakota Century Code. We are proposing to delete the word "registered" because in discussions with Public Depositories and bankers in this area, this method of using registered mail to notify the public corporation or the depository financial institution of the pledge change has not been used. Regular mail has sufficed for over the past thirty-five years. Consequently, we are recommending the change reflect the current practice that has been acceptable to all parties for over the past 35 years.

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State of North Dakota

DEPARTMENT of FINANCIAL INSTITUTIONS

Timothy J. Karsky  
Commissioner

2

Robert J. Entringer  
Assistant Commissioner

Douglas D. Grenz  
Chief Examiner - Banks

Corey J. Krebs  
Chief Examiner - Credit Unions

CSBS ACCREDITED 1993  
NASBUS ACCREDITED 2000

MEMORANDUM

DATE: March 2, 2011  
TO: Chairman Nething Judiciary Committee  
FROM: Robert J. Entringer, Commissioner *Robert J. Entringer*  
SUBJECT: Proposed Amendment to HB 1112

The Department of Financial Institutions is proposing an Amendment to HB 1112 (proposed Amendment attached). The Amendment is fairly simple removing the word "reciprocal" on page 3, line 4 of the bill and adding a Section 2 removing the word "reciprocal" from subsection 1(e) of section 21-06-07 of the North Dakota Century Code.

The reason for the amendment has to do with a financial institution's ability to engage in what is known as a "one-way sell" to the Certificate of Deposit Account Registry Service or "CDARS" for a public entity. CDARS is a deposit placement service. The reason for this proposed Amendment comes from the fact that financial institutions located in the oil country are not in need of further deposits due to the influx of funds from their

customers, as a result of the oil revenues being generated. Based on the foregoing, when a public entity has funds to invest in certificates of deposit, often the dollar amount is very large and could adversely impact the financial institutions equity capital ratios. By allowing the financial institution and the public fund to engage in a "one-way sell" the money is invested through CDARS and is fully insured but CDARS does not send a reciprocal deposit back to the financial institution. This allows the public entity to invest its funds in insured certificates of deposit and the bank to provide a service to its public entity customer without potentially adversely impacting its equity capital ratio.

Mr. Chairman, I would be happy to meet with the committee to fully explain this proposed amendment and answer any questions you or the members of the Committee may have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1112

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  - b. Securities sold under agreements to repurchase written by a financial institution in which the underlying securities for the agreement to repurchase are of a type listed above.
  - c. Certificates of deposit fully insured by the federal deposit insurance corporation or by the state.
  - d. Obligations of the state.
  - e. Certificates of deposit fully insured or guaranteed by the federal deposit insurance corporation and placed for the benefit of the public depositor by a public depository through an appropriate ~~reciprocal~~ deposit placement service as determined by the commissioner of financial institutions.

Renumber accordingly