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ROLL NUMBER

DESCRIPTION

1375

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1375

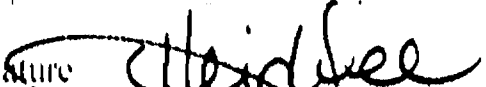
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1375

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Jan 31, 2001

Tape Number	Side A	Side B	Meter #
2	X	X	16 -13.75
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froese, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Representative Merle Boucher: Sponsoring bill on electronic transfer of wages. Using other people's accounts to accept wages is unrealistic and needs to be regulated.

Jim Schlosser: (21.6) **NDBA Written testimony in support**

C. Berg: Can we fix this without other consequences and do you see liability of the bank?

Schlosser: We'd like to look into this closer but no, I don't see any liability on the bank's part.

Representative Kasper: Isn't the money identified by person when brought in?

Schlosser: Under federal regulations, the bank doesn't know.

C. Berg: Close hearing on HB 1375.


2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1375(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb 7, 2001

Tape Number	Side A	Side B	Meter #
2		X	0-6.8
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Jim Schlosser: Proposed amendments.

Rep Severson: I move acceptance of the amendments.

Rep Lemieux: I second.

Rep Lemieux: I move a do pass as amended.

Rep M. Klein: I second

14 yea, 0 nay, 1 absent

Carrier Rep Severson

## PROPOSED AMENDMENTS TO HOUSE BILL 1375

Page 1, line 1, after "transfers" and before "to" insert "by wire or automated clearing house".

Page 1, line 5, after "fronts" and before "in due" insert "by wire or automated clearing house".

Page 1, line 10, after "funds" and before "a" insert "by wire or automated clearing house".

Page 1, line 16, after "funds" and before "in due" insert "by wire or automated clearing house".

### Amendments will:

- Clarify that bill applies only to deposits made by wire or automated clearinghouse from federal government or employers.
- Will resolve specific problem where federal payments requiring electronic fund transfers to bank accounts have been deposited by individuals entitled to the payments into accounts of friends or relatives, creating problems for those entitled to the funds, in addition to the account holder and financial institution.
- Bill will not apply to a transfer of funds which may be made between spouses, as funds are not transmitted by wire.

Date: 2-7-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1375

House Industry, Business and Labor

Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

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

Action Taken Do pass as Amended

Motion Made By Lemieux Seconded By M. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich			Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Severson

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

REPORT OF STANDING COMMITTEE (410)  
February 8, 2001 12:21 p.m.

Module No: HR-23-2718  
Carrier: Severson  
Insert LC: 18308.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**HB 1375: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1375 was placed on the Sixth order on the calendar.

Page 1, line 1, after "transfers" insert "by wire or automated clearinghouse"

Page 1, line 5, after "funds" insert "by wire or automated clearinghouse"

Page 1, line 10, after "funds" insert "by wire or automated clearinghouse"

Page 1, line 16, after "funds" insert "by wire or automated clearinghouse"

Renumber accordingly

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1375



2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1375

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 07, 2001.

Tape Number	Side A	Side B	Meter #
2	x		24.8 to 42.5
Committee Clerk Signature <i>Nous E. Perry</i>			

Minutes:

The meeting was called to order. All committee members, except Senator Espegard and Senator Krebsbach, present. Hearing was opened on HB 1375 to provide for disclosures of funds transfers by wire or automated clearinghouse to a financial institution and liability for funds transfers that are not authorized by the financial institutions.

**Marilyn Foss**, ND Bankers Assn. In support of the bill. Written testimony attached.

**Jack McDonald**, ND Independent Community Banks, in favor of the bill as amended. Urges do pass.

**Senator Klein**: Some people don't have an account and ask for somebody else's number, then that other person takes the money. Since you don't own the money the bank won't allow you to withdraw the money. This will solve that problem. Why would someone not open their own account?

**J McDonald**: Garnishments, execution orders, domestic relations, identity issues, etc. ....

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1375

Hearing Date March 07, 2001.

**Senator Mathern:** To clarify: they give me account number to wire money and whoever is wiring has to state they are not the owners of the account?

**M Foss:** The point is to alert the bank to what you are doing and get the message to open your own account. If customer is colluding with a buddy, the bank is not responsible for figuring this out. This bill applies to you giving me your account number for me to give to another to wire me money and then me not being able to get my money.

**Senator Every:** What about a government check?

**M Foss:** Not covered by this bill

No opposing testimony. Hearing concluded. **Senator Klein:** Motion: do pass.

**Senator Every:** Second. Roll call vote: 5 yes; 0 no; 2 absent, not voting.

Motion carried. Floor assignment: **Senator Mathern.**

Date: 3/07/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1375

## Senate Industry, Business and Labor

Committee

Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen Klein Seconded By Sen Evers

[illegible]

Total (Yes) 5 No 0

Absent 2

Floor Assignment Level Matheon

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

REPORT OF STANDING COMMITTEE (410)  
March 7, 2001 1:42 p.m.

Module No: SR-39-5032  
Carrier: D. Mathern  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1375, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1375 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1375

# HB 1375

## Testimony of Jim Schlosser

### North Dakota Bankers Association

My name is Jim Schlosser and I am representing the North Dakota Bankers Association, a state banking association with member banks and thrifts with nearly 300 facilities in our state. I want to thank Rep. Boucher for sponsoring this legislation which is needed because the federal government requires government payments to individuals be electronically deposited in accounts in financial institutions. As a result of the electronic fund transfer requirement, we are aware of problems in at least two locations in the state, one being Rolla in Rep. Boucher's district.

A typical situation which necessitates this legislation is when a federal government payment recipient is notified that the monthly or periodic payment must be deposited in an account in a financial institution and an account number is required. Some recipients do not have any type of bank account and they approach a friend or relative and request their bank account number and provide that to the federal government and funds are deposited directly in that account. The financial institution has no knowledge that funds are now being deposited in the account that are not owned by the account holder. After the deposit in the account, a number of things may happen. The individual who had funds transferred to another account attempts to withdraw the funds, but cannot, because he/she is not the account owner. Also, the funds in the account may be used by the account owner who may not be keeping track of what funds belong to the account holder and what funds were deposited by the friend or relative. Both of these scenarios result in very unhappy individuals who, at times, blame the financial institution for not protecting their funds. Of course, the financial institution is not advised that transfers are being made into accounts by other than the account holder and may not release funds to anyone but the owner of the account.

The bill in Section 1 requires:

1. The account owner may not allow funds to be transferred into their account in a financial institution unless they have first disclosed this to the bank and the financial institution has consented in writing.
2. The individual arranging or permitting the transfer of funds may not withdraw funds without the written consent of the account holder.
3. The person allowing the transfer of their funds into an account may not recover damages from the financial institution if the account owner has used the funds.

Section 2 provides that the person who permits the transfer of funds (account owner) may be liable to the financial institution for damages if the financial institution is joined in a lawsuit as a result of the withdrawal of the funds by the owner of the account.

Once this legislation is enacted, banks in the areas where they have this problem plan to include statement stuffers setting forth the provisions of the law and discouraging transactions of this type.

The North Dakota Bankers Association urges your support of HB 1375.

HB 1375  
North Dakota Bankers Association  
Marilyn Foss, General Counsel

On behalf of the North Dakota Bankers Association, I want to thank Rep. Boucher for sponsoring this legislation which is needed because the federal government requires government payments to individuals be electronically deposited in accounts in financial institutions. As a result of the electronic fund transfer requirement, we are aware of problems in at least two locations in the state, one being Rolla in Rep. Boucher's district.

A typical situation which necessitates this legislation is when a federal government payment recipient is notified that the monthly or periodic payment must be deposited in an account in a financial institution and an account number is required. **Some recipients do not have any type of bank account and they approach a friend or relative and request their bank account number and provide that to the federal government and funds are deposited directly in that account.**

The financial institution has no knowledge that funds are being deposited in the account and not owned by the account holder. After the deposit in the account, a number of things may happen. The individual who had funds transferred to another account attempts to withdraw the funds, but cannot, because he/she is not the account owner. Also, the funds in the account may be used by the account owner who may not be keeping track of what funds belong to the account holder and what funds were deposited by the friend or relative. Both of these scenarios result in very unhappy individuals who, at times, blame the financial institution for not protecting their funds. Of course, the financial institution is not advised that transfers are being made into accounts by other than the account holder and may not release funds to anyone but the owner of the account.

The IBL Committee in the House felt the original bill was too broad and amendments "by wire or automated clearing house" specifically address the issue of a **transfer of funds electronically** into another individual's account.

The bill in Section 1 requires:

1. The account owner may not allow funds to be transferred into their account in a financial institution unless they have first disclosed this to the bank and the financial institution has consented in writing.
2. The individual arranging or permitting the transfer of funds may not withdraw funds without the written consent of the account holder.
3. The person allowing the transfer of their funds into an account may not recover damages from the financial institution if the account owner has used the funds.

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Once this legislation is enacted, banks in the areas where they have this problem plan to include statement stuffers setting forth the provisions of the law and discouraging transactions of this type.

The North Dakota Bankers Association urges your support of HB 1375.