

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1511

2005 HOUSE JUDICIARY

HB 1511

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1511

House Judiciary Committee

Conference Committee

Hearing Date 2/7/05

Tape Number	Side A	Side B	Meter #
1		xx	0.7-36
Committee Clerk Signature <i>Wain Penrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Maragos).

**Chairman DeKrey:** We will open the hearing on HB 1511.

**Rep. Dave Weiler:** Sponsor of the bill. I'm here in support of HB 1511. When an employer has to deal with this, years ago an employer had to fill out this lengthy, confusing form and fill this out for each employee that is having wages garnished. It started out that the employer would get \$10 for every 30 days, and another 30 days would come along and he would have to fill out the form again. Throughout the legislative sessions, that has been moved from 30 days to 60 days to 90 days. Last session it was at 6 months and they changed that from 6 months to 9 months. So the employer would get \$10, it used to be every 30 days, now he gets \$10 every 9 months. That's how much that's changed. What this bill simply does is move the \$10 to \$25. Some employers have accountants that do their work and some of them have secretaries do their work and some of them do it on their own. It's time consuming, there is a bill in the Senate to simplify the form; however, it's somewhat of a burden on the employers that have to take all

their time to fill out the form for every single employee that is having wages garnished and this is a little bit of a fairness issue, that if they can take this number of days up to 9 months throughout the years, we can at least change a little bit the dollar amount that they're getting in turn.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Dale Gossett, Owner/Operator of Taco John Restaurants in Bismarck/Mandan:** I support this bill. A little background, you are served the garnishment papers. If you do not follow through with this, you potentially can become liable for the employee's debt. The Disclosure itself, the affidavit of disclosure, comes with no instructions. When you first experience this, and you realize that you could be responsible for the debt, you may be making a phone call to your lawyer, you will be making a phone call to your accountant to try to get some updates to see if they're familiar with this particular form, and technically this form is to be filled out and also notarized. So you have to go and have it notarized and then fill it out in the event of a pay change. Since most of my employees are part-time, technically you would have to fill this out every pay period because it changes each time, have it notarized, forward it to the collection service via fax or mail, and just to let them know that you are following through on your obligations and for this you get \$10, it used to be for a 6 month period, of going through the process. At the last legislative session, it was increased to a 9 month period. Now the employer gets to do this for 9 months for \$10. Basically from my perspective, it's not fair or equitable for the amount of time involved, for whoever has to do this, especially if the employer has an accountant do this, they get charged for more than \$10 for 9 months worth of service from their accountant in this respect. I don't believe it should be considered a cost of doing business, I really have nothing to do with the debt. I have to assume that most collection services have

probably gone through a number of other resources before it comes to the point of garnishment. I do know that the \$10 in this case, that does get added onto the debt, and again I feel that if it's come to that point, I have to assume that they've communicated to the person owing the money, and telling them if you don't pay us or set something up with us, that we're going to go to this extent. I think the person who owes the money has really allowed this to get to that point. Basically, that is what we have to go through, it's somewhat complicated. I understand there is a bill to simplify that form and make it more understandable, and make it easier to work with. A lot of times we basically then become the collection agency. We actually will go to the employee, and say that it's come down to this, you are going to have to pay this, what are you willing to pay, sometimes we'll negotiate and be the middle man between the person who owes the money and the collection service, and we'll go to the employee at times and say, so that I don't have to go through this, every pay period, would you agree to pay \$XX dollars. If they agree to that, we call the collection agency and ask them if they will accept this much, and then we withhold it and cut a check every month, envelope, stamp for \$10 for 9 months. That isn't equitable.

**Representative Delmore:** Who exactly would pay the \$25 fee, the person who is already having their wages garnished would be responsible for that.

**Dale Gossett:** The \$25, when we are served the garnishment papers, the collection agency is paying us, and I believe they, in turn, add that onto the debt.

**Representative Onstad:** I guess I'm not aware that once you receive the garnishment papers you have to fill them out every pay period.

**Dale Gossett:** Technically yes, because it's a formula to determine how much, if any, if they've made enough and based on their dependents, and things of that nature, we go through the formula based on their wages every pay period. Once I do it the first time, I can see what range they are at and I can have an idea that they're probably not going to owe anything until they reach a certain point and then once that happens, I have to fill it out again, have it notarized and forward it to the service.

**Representative Onstad:** Once it was filled out one time, to determine whether the employee meets the qualifications to garnish, in either case it seemed like it ended right there. We went to the employee and told them how much was going to come out, and then we withheld that amount and sent it in. We didn't have to fill out additional papers.

**Dale Gossett:** The problem is when they don't have to pay anything, because these people are part-time, their hours fluctuate, and they may work 60 hrs that pay period, the next pay period they work 80. That extra 20 hrs might have brought them to the threshold now where they would owe. If the first time we do it, and they don't owe anything, we're not done with it. Because if they make more money the second time they get paid, or in the event any time they get paid, that amount of earnings in that pay period may cause them to owe, and the only way to know that is to fill out the paperwork again.

**Representative Kretschmar:** Over a year, how many of these do you average in a year in your businesses.

**Dale Gossett:** We probably have 10-12 ongoing a year. If I write a bad check, my financial institution for returning that check, charges me \$25 for a one-time thing, and they're in the banking business. I'm not in the garnishment business. I'm not in the collection business. I

think that \$10 doesn't seem equitable for the amount of time that we have to potentially spend on these situations.

**Representative Meyer:** What do we garnish for other than child support.

**Dale Gossett:** You may have an outstanding medical bill, any number of things. A high percentage of them might be that they owe some medical bill to a hospital, clinic, that they're not paying on, so then a business hires a collection agency, obviously, for a percentage of the money they collect, they get to keep.

**Chairman DeKrey:** Thank you. Further support of HB 1511. Opposition to HB 1511.

**Mike Lefor, ND Collectors Association:** (see written testimony, then passed out what the new form would potentially look like). ND's law has a big definition and explanation for absolutely everything. We believe it is easier taking what the Montana form has, and just filling in the blanks. It is much easier and self-explanatory.

**Chairman DeKrey:** Mr. Gossett makes a good point, basically he's doing your job for you. You're the collection agency and you're supposed to get this money from this person, but he's the one that ends up doing it.

**Mike Lefor:** I agree to a point.

**Chairman DeKrey:** What is a fair price for that service.

**Mike Lefor:** We try to do is make the debtor understand the importance of paying their past due bills. We only do this as a last resort. We believe that if the individual has the ability to pay and refuses to do so, then and only then are we going to obtain a judgment first, and then after we obtained the judgment, then execute to garnish wages. That is an absolute last resort. We prefer not to do it.

**Representative Meyer:** Do you have to have a court order to garnish someone's wages.

**Mike Lefor:** Yes, it has to be a judgment first, an order of the court. We send out a Summons and Complaint, advising them that they owe this account and that if they don't pay it within 20 days, or answer us within 20 days, we can get a judgment by default. Once we get a judgment by default, then the garnishment process starts.

**Representative Delmore:** Do you charge a fee on top of this as well. What's the fee that you would charge.

**Mike Lefor:** We charge a contingency fee if we collect the account. We don't take anything on top of the garnishment. It's just court costs and they pay the court costs first before the bill is then addressed.

**Representative Delmore:** Why is there no employer disclosure fee that is necessary in Montana and we have one here, are the forms that much different.

**Mike Lefor:** Yes, we believe they are. We literally do not get telephone calls from Montana employers. I will say that the ND law does need to be updated tremendously, it is outdated and it's very burdensome for the employer. It's very difficult to figure out.

**Representative Klemin:** How long has the fee been \$10.

**Mike Lefor:** I don't know.

**Representative Bernstein:** I'll answer your question, is \$25 enough, no, not in an ongoing garnishment. It costs much more money to adjust it each time. The \$25 is very minimal.

**Representative Boehning:** If SB 2378 doesn't pass, what are we going to do then. Are we going to keep charging only \$10. You have a lot more time and money in this than that. I think

the collection agency should be filling out all the forms and sitting down with the employers doing the form work. The employers are doing the housekeeping.

**Mike Lefor:** Our hope is that the bill does pass, because we feel the solution is to make the form easier. We think that it has to be made easier no matter what, because the wording is lengthy and confusing and cumbersome. It does need to be changed.

**Representative Boehning:** What if the employer refuses to fill out this form, what is the penalty for the employer.

**Mike Lefor:** They can ultimately be responsible for the debt, if they refuse to do it. I can tell you this, I've been in the business for 30 years, and I can't recall that we've ever done that. We've never taken it to that extreme. I'm not saying it hasn't been done, but we haven't done it.

**Representative Bernstein:** What percentage of the debt do you get for collecting.

**Mike Lefor:** It varies, we can go from 25-40%, the collection agency fronts the cost of the judgment, the lawyer fees, the sheriff fees. Typically in a sheriff service and other costs associated with it, we may pay \$120-150 up front to get the judgment, and then we pay for the sheriff fee after the execution. Those costs continue to rise, making it very difficult for collection agencies as well.

**Chairman DeKrey:** Mr. Gossett, off the top of your head, in looking at the form, is this an improvement.

**Mr. Gossett:** Yes, it is an improvement, but again you have to have it notarized. This puts me in the position of having to collect these monies.

**Chairman DeKrey:** But it is an improvement.

**Mr. Gossett:** It is an improvement.

**Rep. Weiler:** I did do some work on that form and I do know that there are some problems with it. I think it was Jennifer Clark in LC and she was doing some work on it. Hopefully they can get the problems fixed in the Senate. We can't go on the fact that that might pass, because that might not pass.

**Chairman DeKrey:** Do you know where it's at in the Senate.

**Rep. Weiler:** The hearing is this morning, I believe. No, I guess the hearing was last week.

**Representative Meyer:** Have you thought about adding an amendment onto your bill to shorten the form in addition to the \$25, in case SB2378 doesn't pass.

**Rep. Weiler:** No I haven't, but that is a very good idea; but again, that might not pass either.

**Representative Meyer:** You could just design your own form.

**Rep. Weiler:** That is what LC has done, yes. They have tried to simplify the form and we certainly hope that this does the job; however, we can't go on like this is going to pass because that may not pass, and the employer has gotten money, \$10 for every 30 days and the length of time has gone up until it's at 9 months and still the \$10. It's a fairness issue.

**Chairman DeKrey:** Further testimony in opposition.

**Mike Lefor:** It was heard in the Senate Judiciary committee, the two questions they had was the definition of dependent and I believe they are adjusting that to reflect what the rest of NDCC is, to remain consistent, and the other point was to add FICA to the form.

**Chairman DeKrey:** So it was the Judiciary Committee that heard it over in the Senate.

**Mike Lefor:** Yes.

**Chairman DeKrey:** Further testimony in opposition.

**Kim Rau:** The garnishment disclosure form is looking very good. The issues that were of interest to the committee we've done amendments to them and they will have those shortly. Part of the form, they wanted the lines on the other side, part of it was dependent, and part of it was definition on setoff. Those have been addressed. The form does not alter any exemptions that consumers or debtors have. We're still giving them the minimum wage exemption and we're still giving them the \$20 per dependent. We haven't taken anything away.

**Representative Boehning:** Is the \$10 only paid to them once every 9 months.

**Kim Rau:** They get the \$10 for the 270 days, the 9 months. When they fill it out, they are required to send it back to the person who sent it to them, in our case the collection agency or our attorney. Other people can do these too, attorneys and private citizens. They do get only the \$10, they only have to notarize it the first time. Generally, it stays the same. For most of the people that we garnish, they get the same amount withheld every pay period. As he said, sometimes the employer becomes the negotiator, and call us with an amount that can be withheld from their paychecks, and we agree or not.

**Representative Boehning:** So we're doing this for 9 months, you get \$10 to fill this out. So if he pays the employees weekly, he collects the funds and sends them out to the collection agency, the stamp, check cost and fees at the bank, he's losing money on \$10. He's behind before he starts.

**Kim Rau:** What happens with a garnishment, they do not have to release that money every pay period. The way the law is written, he will keep the money until 270 days have elapsed, and then at that point an execution would have to be issued to release the money, unless he has an

agreement with the employee who has signed a release of the funds. He doesn't have to send us a check every pay period.

**Representative Boehning:** But he has to continue doing the paperwork, \$25 isn't enough, there is a lot of extra work there.

**Kim Rau:** Yes, unfortunately you have no choice when people refuse to pay their bills. We go so far out on a limb trying to get people to pay before we get to that point. There's so many steps in the legal process before it gets to that.

**Representative Boehning:** I realize we need collection agencies when people don't pay their bills, but I mean the employer is doing all the work, sending you a check, after the original judgment work is completed.

**Kim Rau:** Sometimes we don't always get all of our costs paid for. Because what they're required to withhold is 110%, that extra 10% should help cover the expenses, it doesn't always depending on the size of the judgment.

**Representative Boehning:** You're actually taking the risk, you may collect 25%, you may collect 40%, you may collect nothing, that's a risk you are taking as a business person to go and collect money from a deadbeat. That's your business. You may or may not collect that account.

**Kim Rau:** It is a cost of doing business.

**Representative Boehning:** I disagree, for him doing the collection work, he should be getting paid on a per check basis.

**Representative Charging:** I heard you say that LC was working on a form...

**Chairman DeKrey:** I would imagine they are working on an amendment.

**Representative Charging:** You're okay with this form.

**Rep. Weiler:** I've looked at the form, it's shorter, but to say whether or not I'm comfortable with it, I really don't know, because I've never dealt with it on a personal basis.

**Representative Klemin:** The \$10 has been in place since 1981, so it's been 24 years. If we added a \$1 a year, it would be up to \$34.

**Representative Onstad:** Currently the collection agency pays the \$10 back to the employer.

**Kim Rau:** Yes.

**Representative Onstad:** So if it goes to the \$25, your opposition is that because you would have to raise your % that comes from the person that owes the bill, that initially you're going to have to pay the \$25 fee.

**Kim Rau:** Not really. We're not going to raise our fees on that. It's just going to be part of our expenses, we're not going to go back to our client and tell them we need 1%. It's part of the 110% that they are garnishable for. Sometimes we get our costs paid back and sometimes we don't. It's just a risk we take.

**Representative Kretschmar:** Does your collection agency take people to court. You serve a summons and complaint on them, if they answer, you take them to trial.

**Kim Rau:** We do take people to court, the number of people we actually have to physically go to court for have been zero in the past 20 years, because most of it is done through briefs. If there is an answer to a summons and complaint, then we have to go to summary judgment versus a default judgment and then everything is done through briefs.

**Representative Bernstein:** Is that \$25 charged to the person who instituted the garnishment, the one who came to you for collection of the debt. Does he pay for that, or is it charged back to the individual who you are garnishing.

**Kim Rau:** The \$25 is put onto the person who is being garnished. But it comes out of that 110%, we already have a judgment. Say the judgment was \$100, we can garnish for \$110.00, so the \$25 fee would come out of that \$110.00, so in that case we would lose money.

**Representative Klemin:** On some of the debts that you collect, are from bad checks.

**Kim Rau:** We don't.

**Mike Lefor:** We rarely take any legal action on NSF checks, it's a very small percentage, because the money isn't in it to pursue that. The only point I want to leave this committee with today, and I understand the feelings about the statements about the employer doing the work, but you need to be cognizant of, as these costs continue to rise, an average account in our business is \$325.00 so if we continue to add costs to the legal costs, there will be less judgment enforcement and more debtors not paying their debts. I can guarantee that will happen.

**Representative Klemin:** It seems to me on the bad checks, we were discussing changes on that in a previous session, and there was a collection fee that could be added to the amount of the bad check to cover part of the judgment and that fee has gone up. I know that there is a collection fee that is added to the bad check to start with.

**Mike Lefor:** That's correct, at present there is a \$25 NSF check recovery fee in ND, that is added on. If someone writes a bad check, the \$25 can be added on, but the American Collectors Association estimates that it costs between \$19-21 to collect on an NSF check, it is a very small profit margin business and there's a danger in that here too, that there will be less judgments taken.

**Representative Klemin:** Isn't the reason for that \$25 fee, is to try and recoup some of the costs of collecting the check.

**Mike Lefor:** Yes it is.

**Representative Klemin:** So then what would be the problem of the \$25 fee for paying the employer the \$25 to do the same thing. Basically, that's the reason for the fee in the NSF check, but you are opposed to increasing it for the garnishment, when it hasn't been increased for 24 years.

**Mike Lefor:** I guess I'm still standing on our solution, we believe the solution is an easier form, rather than a fee increase.

**Representative Boehning:** What is the average debt that you won't collect, there aren't a lot of debt collection agencies out there, if you see that you can't collect hardly anything, you wouldn't take on losing propositions all the time would you.

**Mike Lefor:** You're correct. In fact, when the judgment fee was raised from \$30 to \$80, with these other fees being increased, if this fee is increased, the average account we take is \$325.00, so a 30% commission fee would give me \$90.00 on my account. That's why I'm saying that we need to take a serious look, we're going to lose some enforcement power to collect if these fees continue to grow. There's no question about that.

**Chairman DeKrey:** Further testimony on HB 1511. We will close the hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1511

House Judiciary Committee

Conference Committee

Hearing Date 2/8/05

Tape Number	Side A	Side B	Meter #
1	xx		49.6-end
1		xx	0-1.1
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Maragos).

**Chairman DeKrey:** What are the committee's wishes in regard to HB 1511.

**Representative Koppelman:** I move a Do Pass.

**Representative Boehning:** Seconded.

13 YES 0 NO 1 ABSENT DO PASS

CARRIER: Rep. Galvin

Date: 2/8/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1511

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Rep. Koppelman Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	A		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	✓				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Galvin

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

**REPORT OF STANDING COMMITTEE (410)**  
February 8, 2005 10:35 a.m.

**Module No: HR-25-2101**  
**Carrier: Galvin**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1511: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
**(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1511 was placed on the**  
**Eleventh order on the calendar.**

2005 SENATE JUDICIARY

HB 1511

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1511

Senate Judiciary Committee

Conference Committee

Hearing Date March 21, 2005

Tape Number	Side A	Side B	Meter #
1		X	1220 - 3500
Committee Clerk Signature <i>Mona L Solberg</i>			

Minutes: Relating to garnishment disclosure fees and default judgments.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

**Testimony In Support of the Bill:**

Rep Weiler, Dist. #30 Introduced the bill (meter 1226) This is my second attempt at this bill.

Basically when an owner goes through the garnishment process for an employee there is a complicated long form that they need to fill out. The time and expense that an manager puts into, especially for an hourly individual the \$10 every nine months does not cover it. Rep. Weiler explained this in detail including the history of the process. Employer is held liable. Discussed SB 2378 is now the new and improved form.

Dale Gossett, Taco Bell Bismarck Owner (meter 1800) Described what his process is each pay period. This should not be considered to a company the "cost of doing" business.

Page 2

Senate Judiciary Committee

Bill/Resolution Number HB 1511

Hearing Date March 21, 2005

**Senator Triplett** questioned the time spent for an hourly employee they should be paid maybe paid each time they do it? Discussed the process of \$25 per garnishment per employee. I generally have 10 people on this.

Sometimes I work as a mediator between the employee and the collection agency to pay "X" amount of dollars each week so that we do not have to do the complex calculations. Committee discussed in detail the payment process.

**Testimony in Opposition or Neutral of the Bill**

**Kim Rau**, ND Collectors Association (meter 2600) Referred to line 23 as a good idea some are doing already, discussed how we do it. Raising the fee adds one more pay hike to what we are already paying, for example garnishment papers, this fee. Some companies don't even cash the checks that we give them currently. Discussion of the process costing too much after our fees are taken out for us to make a profit on the smaller judgment.

**Senator Hacker** questioned if they had to take a judgment? No we often choose not to.

**Senator Triplett** questioned if the fees should be reflected on the type of pay (salary vs. hourly)? This would add up to many fees for us to do it this way. I have very few employers who have to change it so many time.

**Sen. Trenbeath** made the motion to Do pass **Senator Hacker** seconded the motion. All members were in favor and motion passes.

Carrier: **Senator Hacker**

**Senator John (Jack) T. Traynor**, Chairman closed the Hearing

Date: 3/21/05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1511

Senate Judiciary Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Senator Trenbeath Seconded By Senator Hacker

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Hacker

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

**REPORT OF STANDING COMMITTEE (410)**  
March 21, 2005 12:18 p.m.

**Module No: SR-51-5552**  
**Carrier: Hacker**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1511: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1511 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY.

HB 1511

Testimony of:

Mike Lefor  
Legislative Director  
North Dakota Collectors Association  
House Bill 1511

Good morning Chairman DeKrey and members of the House Judiciary committee  
My name is Mike Lefor and I serve as the legislative director for the North Dakota  
Collectors Association. Our association has twenty-four members within the state of  
North Dakota.

The employer disclosure form in North Dakota is cumbersome and needs to be updated.  
During the 2003 legislative session this bill was introduced raising the fee for employers  
to fill out this form from \$10.00 to \$25.00. The legislature voted the bill down then and  
we believe it should again be defeated. During the past legislative session our association  
promised to come back to this session with a bill that would make the employer  
disclosure form easier to fill out. We have fulfilled that promise with Senate Bill 2378.

I have attached what the form will look like. As you can see, we have taken the form  
from five pages down to two pages making it easier to fill out. This new form is close to  
the Montana form. I have been in the collection business for over thirty years and I can  
tell you that we do get telephone calls from North Dakota employers asking how to fill  
out the form, they do not understand it. I can also say that in recent discussions with our  
staff and from my own personal knowledge we have never had an employer in Montana  
call us with questions as to how to fill out the form.

We recently asked a large Montana employer how long it took for them to fill out the form, she responded "five to ten minutes." If you raise the fee for employers, that will not eliminate the problem, they will still have questions as to how to fill out the form. The answer, we believe is to make the form easier to understand. In Montana, there is no employer disclosure fee.

Our association is opposed to House Bill 1511 for other reasons. First, the costs associated with the judgment process and sending out an execution continues to rise. There is a bill in the legislature to increase the cost of sheriff service in certain areas from \$10.00 to \$20.00 , there is another bill in the Senate which would lower the amount of post judgment interest that could be charged and this bill to increase the fee on Employer Garnishment Disclosures from \$10.00 to \$25.00.

The cumulative effect of all of this would make the credit grantor, the business which provided the goods and services in good faith wait longer to get paid as these costs must be covered first. Another concern is that for those individuals who have judgments taken against them, it will take them longer to get their accounts paid.

Again, we believe the solution is not to add cost, but to make the form simpler for the employer to fill out. I would be happy to answer any questions you may have.

A garnishment disclosure form must be served upon the garnishee. The disclosure must be substantially in the following form:

State of North Dakota )  
 )ss.  
County of \_\_\_\_\_ )

In \_\_\_\_\_ Court  
\_\_\_\_\_

\_\_\_\_\_  
Plaintiff

vs.

\_\_\_\_\_  
Defendant

Garnishment Disclosure

and

\_\_\_\_\_  
Garnishee

I am the \_\_\_\_\_ of the garnishee and duly authorized to disclose for the garnishee.

On \_\_\_\_\_, \_\_\_\_\_, the time of service of garnishee summons on the garnishee, there was due and owing the defendant from the garnishee the following:

1. **Earnings.** For the purposes of garnishment, "earnings" means compensation payable for personal service whether called wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program. "Earnings" does not include social security benefits or veterans' disability pension benefits, except when the benefits are subject to garnishment to enforce any order for the support of a dependent child. "Earnings" includes military retirement pay. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. If the garnishee summons was served upon you at a time when earnings from a prior completed pay period were owing but not paid, complete the following disclosure for earnings from both the past pay period and the current pay period.
2. **Adverse interest and setoff.** Any setoff, defense, lien, or claim by the garnishee or other persons by reason of ownership or interest in the defendant's property. You must state the name and address and the nature of that person's claim if known. (Any assignment of wages made by the defendant or any indebtedness to a garnishee within ten days before the receipt of the first garnishment on a debt is void and should be disregarded.)
3. **Dependent.** Dependent family members living with the defendant. (If properly claimed within ten days after receipt of the garnishee summons.)

4. **Worksheet:**

- a. Total earnings in pay period \_\_\_\_\_
- b. Federal Tax \_\_\_\_\_
- c. State Tax \_\_\_\_\_
- d. Social security \_\_\_\_\_
- e. Total lines b, c, and d \_\_\_\_\_
- f. Disposable Earnings (line a minus line e) \_\_\_\_\_
- g. Minimum wage exemption (forty times minimum wage times number of weeks in pay period) \_\_\_\_\_
- h. Line f less line g \_\_\_\_\_
- i. Twenty-five percent of line f \_\_\_\_\_
- j. Line h or line i (whichever is less) \_\_\_\_\_
- k. Dependent exemption (twenty dollars per dependent per week, if claimed) \_\_\_\_\_
- l. Adverse interest and setoff \_\_\_\_\_
- m. Line j less lines k and l \_\_\_\_\_

Line m is the amount subject to garnishment (not to exceed 110 percent of the amount of the judgment which remains unpaid).

**AFFIRMATION**

I, \_\_\_\_\_ (person signing affirmation), am the garnishee or I am authorized by the garnishee to complete this garnishment disclosure, and have done so truthfully and to the best of my knowledge.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature \_\_\_\_\_  
Authorized Representative of Garnishee

\_\_\_\_\_  
Title

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public