

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1101

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1101

House Industry, Business and Labor Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-19.5
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

CHAIRMAN BERG called the hearing for HB 1101 to order.

1A: 11.8 GARY PRESZLER, Commissioner for the Department of Banks and Financial Institutions, testified in favor of the bill. (See attached testimony.)

1A: REP. KEISER asked what would be the likelihood of a citizen filing a suit over a \$2 ATM fee. Mr. Preszler answered that there was a possibility.

1A: 15.7 REP. MARTINSON asked if the real value to the consumer wasn't to require the ATM operator to give a notice to the consumer that there will be a surcharge for transactions. Mr. Preszler said that the notice is on each ATM indicating the amount of the fee, and giving the consumer the opportunity to cancel the transaction.

1A: 17.8 MARILYN FOSS, General Council of ND Bankers Association, testified in support of the bill. She said that this bill is an effort to place on ATM operators the same obligations that apply to banks, and to better advise consumers so they can make an informed decision on which ATM to use.

CHAIRMAN BERG adjourned the hearing on HB 1101.

1A: 18.6 REP. KEISER made a motion for a DO PASS on HB 1101. The motion was seconded by Rep. Martinson. A roll call vote was taken. The motion passed and Rep. Keiser will carry the bill to the House.

Date: 11-2-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1101

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Keiser Seconded By Martinson

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe		
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Keiser

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

REPORT OF STANDING COMMITTEE (410)
January 12, 1999 4:39 p.m.

Module No: HR-06-0514
Carrier: Keiser
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1101: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1101 was placed on the Eleventh order on the calendar.

1999 SENATE INDUSTRY, BUSINESS AND LABOR
HB 1101

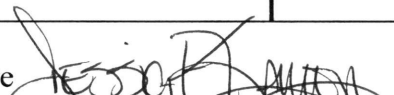
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1101

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 9, 1999

Tape Number	Side A	Side B	Meter #
1	x		1651-4160
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on HB1101. All senators were present.

Gary Preszler, Commissioner for the Department of Banking and Financial Institutions, testified in support of HB1101. His testimony is included. Senator Mutch asked him if even with the passing of the amendments the banking commissioner would have no policing powers over the rates that the bank would charge. Mr. Preszler told him that he was correct. Senator Mutch asked if some of the machines could be leased. Mr. Preszler said that yes they could and then they would split the fees with the bank. Senator Thompson asked Mr. Preszler how many non-bank owned operators are in the state. Mr. Preszler said that he was not sure of the exact number, but the majority of the machines in the state are owned by banks.

Joel Gilbertson, Independent Community Banks of North Dakota, testified in support of HB1101. He also proposed an amendment to the committee.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number Hb1101

Hearing Date February 9, 1999

Marilynn Foss, North Dakota Bankers Association, testified in support of HB1101.

Galen DeBay, North Dakota Credit Union League, testified in support of HB1101.

Senator Mutch closed the hearing on HB1101.

Senator Mathern motioned to pass the amendments to HB1101. Senator Krebsbach seconded her motion. The motion carried with a 6-0-1.

Senator Mathern motioned for a do pass with amendments committee recommendation on HB1101. Senator Krebsbach seconded the motion. The motion carried with a 6-0-1 vote.

Senator Krebsbach will carry the bill.

Date: 2/1/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
~~HOUSE~~ BILL/RESOLUTION NO. 1101

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken AMEND

Motion Made By MATHERN Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp					
Senator Thompson	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

Date: 2/9/99
Roll Call Vote #: 2

SR272479

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
HOUSE BILL/RESOLUTION NO. 1101

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By MATHERN Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp					
Senator Thompson	X				

x
x
x
x
x

Total (Yes) 6 No 0

Absent 1

Floor Assignment KREBSBACH

REPORT OF STANDING COMMITTEE

HB 1101: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1101 was placed on the Sixth order on the calendar.

Page 2, line 18, after the underscored period insert "The name of the owner of an automated teller machine must be shown on each automated teller machine located separate from a financial institution."

Renumber accordingly

1999 TESTIMONY

HB 1101

TESTIMONY FOR HOUSE BILL NO. 1101

House Industry, Business, and Labor Committee

Testimony of Gary D. Prezler, Commissioner, Department of Banking and Financial Institutions in support of House Bill No. 1101.

House Bill No. 1101 directs that bank and non-bank operators of electronic funds transfer facilities, commonly known as ATMs, comply with notice and disclosure requirements that only bank-owned operators of electronic funds transfer facilities must comply with now.

In 1995 the Legislature enacted House Bill No. 1271 which required that bank-owned operators of electronic funds transfer facilities comply with certain notice and disclosure requirements in operating that facility so as to be able to impose a charge to the user. The notice and disclosure provisions merely require for an operator to impose a transaction fee that the user be so notified of the amount of the fee and provided an opportunity to cancel the transaction.

In moving this notice and disclosure requirement from Chapter 6-03 to the general banking chapter provisions of Chapter 6-08, bank and non-bank owner operators of electronic funds transfer facilities are treated equally. As in the case of any other statutory duty, a citizen would have a private cause of action against any owner of an electronic funds transfer facility who does not comply with the notice and disclosure requirements.

As a policy matter, the number of non-bank owned operators of electronic funds transfer facilities is on the increase and that most electronic clearing house network agreements require the notice and disclosure provisions now.

Based on the above, the Department stands in support of House Bill No. 1101 and requests a favorable “Do Pass” from the Committee.

TESTIMONY FOR HOUSE BILL NO. 1101

Senate Industry, Business, and Labor Committee

Testimony of Gary D. Preszler, Commissioner, Department of Banking and Financial Institutions in support of House Bill No. 1101.

House Bill No. 1101 directs that bank and non-bank operators of electronic funds transfer facilities, commonly known as ATMs, comply with notice and disclosure requirements for imposing a surcharge that only bank-owned operators of electronic funds transfer facilities must comply with now.

In 1995 the Legislature enacted House Bill No. 1271 which required that bank-owned operators of electronic funds transfer facilities comply with certain notice and disclosure requirements in operating that facility so as to be able to impose a charge to the user. The notice and disclosure provisions merely require for an operator to impose a transaction fee that the user be so notified of the amount of the fee and provided an opportunity to cancel the transaction.

In moving this notice and disclosure requirement from Chapter 6-03 to the general banking chapter provisions of Chapter 6-08, bank and non-bank owner operators of electronic funds transfer facilities are treated equally. As in the case of any other statutory duty, a citizen would have a private cause of action against any owner of an electronic funds transfer facility who does not comply with the notice and disclosure requirements.

The number of non-bank owned operators of electronic funds transfer facilities is on the increase and that most electronic clearing house network agreements require the notice and disclosure provisions now. Although disclosure requirements are part of the network agreements now, I have been told that the network providers do not always enforce the disclosure requirement. House Bill No. 1101 applies the disclosure requirement to all ATM owners non-discriminatorily.

As a policy matter, I am not taking a position on whether imposition of ATM surcharges is appropriate and any concern is limited to only applying the fee disclosure to all owners.

Based on the above, the Department stands in support of House Bill No. 1101 and requests a favorable "Do Pass" from the Committee.