

# MICROFILM DIVIDER

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SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1183

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1183

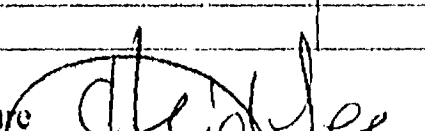
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1183

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan 17, 2001

Tape Number	Side A	Side B	Meter #
1	X	X	45.37-20.00
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.

Mark Bachmeier: *Commissioner of Labor* **Written testimony sponsoring bill**

Rep Ekstrom: Can you protect wages denied by an employer?

Bachmeier: Yes, issuing this bill will force the timing of being paid to be more effective.

Chairman Berg: So you're just trying to create uniformity so it's simple and clear?

Bachmeier: Yes, the current timeline is impractical.

Rep Thorpe: Does unused time off need to be on the final pay check?

Bachmeier: Yes

Rep Ruby: Is the term "faithfully" used to loosely?

Bachmeier: "Faithfully" mean any work done at all.

Rep Kasper: I still see problems. Can we adjust other parts of this?

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1183

Hearing Date Jan 17, 2001

Bachmeier: I don't oppose and additional changes.

Rep Lemieux: What is the influence on salaried employees?

Bachmeier: There is no change to entitle pay. Payment is prorated for work done until finished.

Rep Kelser: Could we add language to correct those windows of work that occur after the end of a pay period but prior to a payday?

Bachmeier: That would seem to do it and I'll see about drafting something to look over.

Chairman Berg: We'll close the hearing on HB 1183 and hold until later.

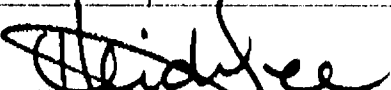
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1183 (B)

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan 31, 2001

Tape Number	Side A	Side B	Meter #
2		X	49
3	X		-1.68
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.

R. Kasper: *Overview Bill and Propose Amendment*

R. Ruby: Should change "pay day" to "pay period."

V.C. Keiser: I think we have to include both elements.

C. Berg: We should get back with Bachmeier on this.

R. Froseth: I recommend a Do Pass, without amend.

R. Severson: I second.

14 yes, 1 no, 0 absent  
Carrier Rep. Lemieux

Date: 1-31-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~Click here to type Bill/Resolution No.~~ 1183

House Industry, Business and Labor Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken Do Pass

Motion Made By Froseth Seconded By Severson

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 1

Absent 0

Floor Assignment Lemieux

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

**REPORT OF STANDING COMMITTEE (410)**  
January 31, 2001 4:15 p.m.

**Module No: HR-17-2041**  
**Carrier: Lemieux**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1183: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends DO PASS (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1183 was placed on the Eleventh order on the calendar.**

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1183



2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1183

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 21, 2001.

Tape Number	Side A	Side B	Meter #
1	x		29.2 to 52.5
2	x		7.2 to 9.5
Committee Clerk Signature <i>Doris &amp; Prinz</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1183 relating to wages payable upon separation from employment .

**Mark Bachmeier**, Commissioner, ND DOL : Intent to clarify and simplify, and because section 34-14-03 creates unenforceable violations. Time frames existing in the law are commonly violated because of payroll processing delays not because of wage disputes. Written testimony attached.

**Senator Mathern**: If employee quits and has vacation accrued and the next day is the regularly scheduled pay day, do I have to pay them everything the next day?

**M Bachmeier**: Under current law technically that would be so, you may have already processed the payroll, have the checks ready and it would be impracticable to figure out how much vacation is owed and process that. The employee calls the DOL to complain, we would respond file a complaint, under proposed change you can give them the rest of the money owed on the next

payroll day.

**Senator Klein:** Last check has to be sent by certified mail?

**M Bachmeier:** We allow other arrangements to be made even though certified mail would be a protection for the employer. Only option under current law if employee is terminated is by certified mail, under proposed change if they have agreed to different means (like direct deposit) that would be allowed.

**Senator Krebsbach:** Wouldn't it be easier if language read " employer shall pay as agreed on by both parties or by certified mail"? How often is it sent by certified mail?

**M Bachmeier:** If it makes the section clearer I wouldn't oppose it. Rarely, but important provision in case of dispute.

**Senator Every:** Wages are due immediately, since under present law we cannot enforce it we are changing the law?

**M Bachmeier:** Only when person is fired are they due immediately but law already provides they are payable on another date. So we are making that consistent.

**Every:** Is retirement money included?

No, only wages and additional compensation like bonuses, commissions, things related to the performance of work. We have no jurisdiction over pensions.

No opposing testimony. Hearing closed.

Tape 2-A-7.2 to 2-A-9.5. Discussion held.

**Senator Espegard:** Motion : do pass. **Senator Krebsbach:** Second

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Espegard.**

Date: Feb 21/01  
Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1183**

Senate Industry, Business and Labor Committee

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

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

Action Taken Do Pass

Motion Made By Sen Espeland Seconded By Sen Krebsbach

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espeland	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Espeland

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

**REPORT OF STANDING COMMITTEE (410)**  
February 21, 2001 1:38 p.m.

**Module No: SR-32-4221**  
**Carrier: Espegard**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1183: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1183 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

HB 1183

John Hoeven  
Governor

Mark D. Bachmeier  
Commissioner



State Capitol - 13th Floor  
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Bismarck, ND 58505-0340

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Testimony on HB 1183  
Prepared for the  
House Industry, Business, and Labor Committee

January 17, 2001

Chairman Berg and members of the Committee, good morning. For the record, my name is Mark Bachmeier and I am the Commissioner of Labor.

North Dakota Century Code section 34-14-03 provides for the timing for the payment of wages to an employee who separates from employment with an employer. The section has several things that are awkward about it and one larger problem. HB 1183 proposes to resolve all of the issues by simplifying the entire section.

Currently, the section contains separate provisions for the payment of wages upon separation from employment depending upon whether an employee is terminated from employment by the employer, quits voluntarily, or has his or her employment suspended as the result of an industrial dispute. When an employee is terminated from employment, the employee's unpaid wages become due immediately and payable within fifteen days or at the next regular pay period, whichever occurs first. When an employee quits voluntarily or is suspended from work due to an industrial dispute, that person's wages become due and payable at the next regularly scheduled payday.

There are two minor awkward issues about the first provision. First, to say that the unpaid wages become due immediately but payable at a later time is an unnecessary distinction that leads to questions about what it actually means for the wages to be "due immediately." Secondly, to have the wages due at the next regular pay period is unclear because a pay period is a period of time not a point in time.

In addition, the section provides for a penalty if the wages are not paid within the stated time only in cases where the employee is terminated from employment. Most disputes involving the withholding of an employee's final wages occur when an employee quits voluntarily but the penalty does not apply to that circumstance. Finally, the section requires employers to pay the final wages of an employee who is terminated from employment by certified mail. In most cases, the employee prefers to arrange to pick up the final paycheck and we regularly allow it if the employer agrees to it.

The primary reason we filed HB 1183, however, is that section 34-14-03 creates unenforceable violations. It is a regular occurrence for last paychecks to not be paid within the times currently stated in the section. In most of those instances, the actual

