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ROLL NUMBER

DESCRIPTION

1351

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1351

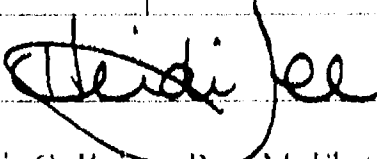
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1351

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan 31, 2001

Tape Number	Side A	Side B	Meter #
2	X		0-15.8
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.

Representative Nancy Johnson: I'm sponsoring bill.

Marilyn Foss: *ND Bankers Association* **Written Testimony**

Representative Kasper: What would be 'directly conducting a financial act'?

Foss: Acting as a finder.

Representative Ekstrom: Would it be possible to be a bank in name only?

Foss: This does not do that, the lines are blurry already.

C. Berg: Close hearing on HB 1351

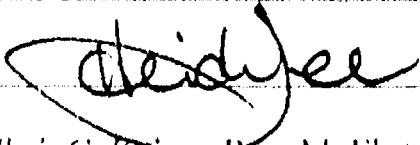
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1351 (B)

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan 31, 2001

Tape Number	Side A	Side B	Meter #
2		X	45.5
3	X		-1.9
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.

Representative Kasper: This opens state banks to do underwriting of securities and insurance.

Representative Severson: May there be some regions that this could be good?

Representative Kasper: This changes from selling to creating.

Representative Keiser: National league banks would allow this without subsidiary provisions.

Representative Kasper: This is a potential loss to assets of the bank, mainly customers.

Representative Severson: I move a do pass

Representative Lemieux: I second

13 y, 2 n, 0 absent
Carrier Representative Pietsch

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~~ 1351

House Industry, Business and Labor Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Severson Seconded By Lemieux

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) 13 No 2

Absent 0

Floor Assignment Pietsch

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

REPORT OF STANDING COMMITTEE (410)
January 31, 2001 4:18 p.m.

Module No: HR-17-2043
Carrier: Lemieux
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1351: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends DO PASS (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1351 was placed on the Eleventh order on the calendar.

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1351

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1351

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 21, 2001.

Tape Number	Side A	Side B	Meter #
1		x	23.2 to end
2	x		0 to 3.7
2	x		12.4 to 14.0
Committee Clerk Signature <i>Orvis & Pirez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1351 relating to the powers of state-chartered banks.

Representative Nancy Johnson, District 37, co sponsor. This bill was submitted at the request of the ND Bankers, Assn. In 1999 the federal government passed a banking bill that changed the powers of national chartered banks, this bill is a parity issue. Marilyn Foss will explain the content of the bill.

Marilyn Foss, ND Bankers Assn. Gral Counsel. In favor. Written testimony attached.

Senator Mutch: Are brokerage and similar activities already authorized by GLB?

M Foss: GLB has list of activities defined as "financial activities". GLB has a provision prohibiting national banks from engaging in insurance underwriting either directly or indirectly unless grandfathered. A number of state chartered banks in ND have insurance agent activities or agencies as affiliates.

Joel Gilbertson, Independent Community Banks of ND. In support this bill is necessary in the post GLB era.

Rep. Jim Kasper, District 46. In opposition. Submitted proposed amendment for page 2, line 4 to remove "directly or indirectly". During House hearings I asked Marilyn Foss if by having these words in the bill we are allowing state chartered banks to underwrite the insurance and securities and take the risk directly within the bank. Can they form an insurance company, not agency, or securities company, not agency, and subject depositors to the risks of the underwriting losses or gains? The answer was yes. Under GLB these activities are allowed under a subsidiary, that way depositors are not at risk. I suggest the committee consider this amendment. I won't change intent of the bill, what it does is protect depositors.

Senator Espgaard: Taking those words out won't change anything.

Rep Kasper: Yes because they would have to abide by the GLB provisions for national banks.

Senator Krebsbach: GLB restricts insurance underwriting? We are trying to set the same rules for both state and national chartered banks:

M Foss: GLB restricts insurance underwriting by national banks. The intention of drafting the bill is to allow state chartered banks to request authority to do directly activities national chartered banks can do only through subsidiaries. To address Representative Kasper's concern there will be the fire wall of the FDIC and the state board which are the ones who will be granting the authority. The point is to provide flexibility to compete in the insurance and securities industry without having to set up a subsidiary and all that it involves.

Senator Espgaard: The amendment won't do anything?

M Foss : I agree.

Gary Preszler, Banking Commissioner, clarified activities allowed under GLB to banks,

Page 3
Senate Industry, Business and Labor Committee
Bill/Resolution Number HB 1351
Hearing Date February 21, 2001.

subsidiaries and holding companies. If activity is done by subsidiary or in bank, its still their investment that is at stake. If done by holding company shareholders' money is at stake. GILB never gave states right to determine powers of state banks, that is still up to the states legislature. FDIC would still have to approve them. Distributed copies of Title I - Facilitating Affiliation Among Banks Securities Firms, and Insurance Companies.

No additional testimony. Hearing closed.

Tape 2-A-12.4 to 14.0.

Discussion held. **Senator Espegard**: Motion: do pass. **Senator Klein**: Second.

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

18303.0101
Title.

Prepared by the Legislative Council staff for
Representative Kasper
February 20, 2001

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1351

Page 2, line 4, remove "directly or indirectly"

Renumber accordingly

REPORT OF STANDING COMMITTEE (410)
February 21, 2001 1:42 p.m.

Module No: SR-32-4224
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1351: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1351 was placed
on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1351

TESTIMONY OF MARILYN FOSS
IN FAVOR OF HB 1351
(On Behalf of North Dakota Bankers Association)

Chairman Berg, members of the House Industry Business and Labor Committee, my name is Marilyn Foss. I am general counsel for the North Dakota Bankers Association and am appearing before you to support HB 1351 which amends NDCC 6-03-38. NDCC 6-03-38 is North Dakota's "parity" statute; it is the means by which state chartered banks can keep up with national banks as national bank powers are expanded.

This bill is a "housekeeping" bill and is an offshoot of the Federal Financial Modernization Act (Gramm Leach Bliley) ("GLB") which became federal law in November, 1999. GLB removed barriers which kept the banking, insurance and securities industries separate and implemented the concepts of "financial" activities and activities which are "complementary" to financial activities to provide a framework for expanding bank powers.

However, since we were looking at the statute we also took the opportunity to modernize the language which authorizes a state chartered bank to invest in subsidiaries which are organized in a business entity form other than a business corporations, eg., an LLC. This second point is the sole purpose of changing "corporation" to "organization" on page 1.

The bill also removes the word "banking" as a modifier and classification of the types of activities which a subsidiary of a state bank (p. 1, line22) or a state bank (page 2, line 4) can engage with state banking board approval. Before GLB, bank powers and activities were generally authorized as "banking activities or powers" or "incidental" to the banking business. Indeed, these words became "terms of art" and had specific meaning within the banking industry. Bank applications to engage in new activities were analyzed to make sure the powers fell within the restrictions expressed by these terms of art. Classic "banking" powers are typically set out in statutes such as NDCC 6-03 or the National Bank Act. For example, the power to make a real estate loan under specified conditions is set out in NDCC 6-03- 05 and is a banking activity. Both state and federal law also authorize banks to engage in activities which are "incidental" to the business of banking. "Incidental" banking powers include, under North Dakota law, the power to

