

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2057 (2/85) 5M



ROLL NUMBER
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DESCRIPTION

2364

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2364

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2364

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 05, 2001.

Tape Number	Side A	Side B	Meter #
1	x		0 to 14.7
(Feb. 07/01) 2		x	0 to end
3	x		0 to 1.3
(Feb. 14/01) 1		x	13.0 to 17.8
Committee Clerk Signature <i>Donna &amp; Perry</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2364 relating to liabilities associated with the use of electronic funds transfer facilities; relating to the care required of banks in accepting deposits from electronic funds transfer facilities.

SENATOR GARY NELSON: Prime sponsor of the bill. This bill is at the request of a constituent who had major problems with deposits made on ATMs. There will be a lot of opposition but I think banking industry needs to assume some responsibility.

No more testimony in favor.

JACK MCDONALD, Independent Community Banks of ND. Written testimony attached. Urges do not pass. This bill would eliminate the use of ATMs. The key part of the bill, page 2, line 3, requires banks to verify signature and account number. This would make banks liable and banks won't be able to accept ATM deposits.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2364

Hearing Date Feb. 05/01

SENATOR TOLLEFSON: Right now, is there any liability on the bank if I brought a check with fraudulent endorsement?

J MCDONALD: If they should have known, yes, otherwise, no.

SENATOR KLEIN: What could have been done?

J MCDONALD: If embezzlement was suspected an audit could have been done, should have established control (one person takes in the money, another makes the deposit), not turn around and blame the bank because an ATM was used.

Hearing concluded.

January 7, 2001. (Tapes 2- B - 0 to end; 3- A - 0 to 1.3) Committee reconvened. All members present.

ED FERGUSON, on his own behalf, as the law is now liability of bank has to be proven if they made a mistake during processing of checks. They are required a standard of ordinary care. This bill will define the standard of care. If you go to a teller, they will verify checks are made payable to the account they are going to. With the ATM there is no proofing, this bill will require proofing, if not done, bank will be strictly liable.

JAMES SCHLOSSER, ND Bankers Association, Opposes this bill. The end result of strict liability for ATM deposits will be that nobody will take those deposits.

Hearing concluded.

February 14, 2001. (Tape 1-B-13 to 1-B-17.8) Committee reconvened. All members present.

Discussion held.

SENATOR ESPEGARD: To prevent this from happening a double entry account system can be established, the employees can be bonded and frequent audits can be performed. In this case the crime was committed in the business place not in the bank or the ATM machine.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2364

Hearing Date Feb. 05/01

SENATOR ESPEGARD: Motion: do not pass. SENATOR D. MATHERN: Seconded.

Roll call vote: 7 yes; 0 no. Carrier: SENATOR ESPEGARD.

Date: 2/14/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2364

Senate Industry, Business and Labor Committee

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

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

Action Taken Do Not Pass

Motion Made By Sen Espegard Seconded By Sen Mathern

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Espegard

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

**REPORT OF STANDING COMMITTEE (410)**  
February 14, 2001 11:50 a.m.

**Module No: SR-27-3310**  
**Carrier: Espegard**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2364: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2364 was placed on the Eleventh order on the calendar.**

2001 TESTIMONY

SB 2364



February 5, 2001

SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE  
SB 2364

CHAIRMAN MUTCH AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the Independent Community Banks of North Dakota and the North Dakota Bankers Association. We oppose **SB 2364** and respectfully request a **do not pass**.

We certainly respect the intentions of the sponsor and the problems that led to this bill. However, the effect of the bill is very anti-consumer. It effectively bans the use of ATMs for the deposit of any funds. Thousands of individuals and businesses in North Dakota use ATMs for deposit every day. I'm not aware of any evidence, studies or statistics that show that North Dakotans do not want to use their ATMs for deposits.

I have six children, five of whom have gone to college and have gone off to work, have played junior hockey or are in the service. I have one more to go for college. I can't begin to count the number of times I've gotten a call on a Saturday, or late some night, asking for a quick deposit into their account to cover this or that emergency. This is always done through ATMs. I'm sure I'm not alone in this regard.

Businesses regularly use ATMs to make after-hours deposits. There is no real reason to cancel the benefits of the after-hour banking ATMs provide statewide for one or two problems that can be handled by other means.

If you have any questions, I'd be glad to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.