

# NATIONAL PAYROLL REPORTING CONSORTIUM, INC.

AUTOMATIC DATA PROCESSING, INC • CERIDIAN CORPORATION • COMPUPAY, INC • FEDERAL LIAISON SERVICES, INC  
INTUIT INC • PAYCHEX, INC • PAYCYCLE, INC • PAYMAXX, INC • PAYROLL PEOPLE, INC • PRIMEPAY, INC  
PO Box 850 HENRIETTA, NY 14467-0850  
WWW.NPRC-INC.ORG

---

March 22, 2005

## Testimony for the Committee on Business, Research and Economic Development

Re: **LD 633 An Act To Relieve Small Payroll Companies from Excessive Regulation**

The National Payroll Reporting Consortium (NPRC) is a non-profit trade association whose member organizations provide payroll processing and related services to over one million employers nationwide, covering over one-third of the private sector work force.

NPRC participated in hearings in 2004 on LD 1843, which was drafted to address instances of unscrupulous persons collecting tax payments from businesses and failing to transfer such payments to tax authorities. In essence, while we did not believe that there was a need for additional oversight of the industry, NPRC testified that if enacted, any legislation must be effective in accomplishing the intended goals.

NPRC also provided testimony to this Committee on February 1, 2005 concerning LD 58, An Act to Support Payroll Processors; and LD 208, An Act to Lower the Surety Bond Requirement for Payroll Processors. We said that the 2004 legislation had struck the right balance in protecting businesses without imposing overly burdensome oversight on the industry, and should be given an opportunity to work.

As noted in the prior testimony, a worst-case outcome for the state and for Maine businesses would be if legislation created the appearance of protecting businesses without establishing effective, substantive measures to do so. Additional losses would be even more likely in this scenario than had no legislation been enacted at all, as businesses would be given a *false sense of security* and would be less careful about choosing and overseeing a service provider.

### **LD 633 would establish a loophole that could enable additional losses to businesses.**

The law enacted in 2004 exempts payroll processors that do not have the authority to access, control, direct, transfer or disburse a client's funds. **LD633** would change that exemption to cover payroll processors that do not have custody of a client's funds.

The definitions and exemptions contained in the 2004 legislation were carefully crafted and well considered. Payroll processors that do not take custody of clients' funds today, but that have been *granted the authority to access* (or control, direct, transfer or disburse) a client's funds, are certainly free to take custody of clients' funds tomorrow.

Adopting the exemption expressed in LD633 would open the door to additional abuse, both intentional; e.g., of a criminal building a client list on a 'no custody' basis in order to avoid regulatory oversight, while ultimately intending to divert all available funds offshore; and situational, as in the case of an individual performing payroll services whose gambling or other personal problems escalate to the point of desperation.

The law was enacted to prevent theft of payroll taxes from Maine businesses. We believe that any organization entrusted with authority to access the assets of Maine businesses should have to meet the appropriate licensing and bonding requirements under Maine law.