

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2326

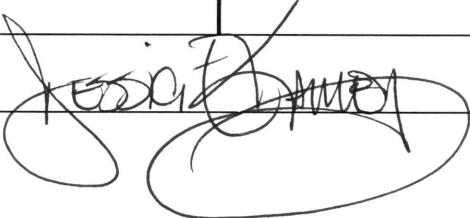
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2326

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/19/99

Tape Number	Side A	Side B	Meter #
1	X		0-2600
Committee Clerk Signature 			

Minutes:

Senator Mutch called the meeting to order. Roll call was taken, all were present.

Senator Mutch opened the hearing on SB 2326.

Senator Krebsbach introduced the bill. Testimony enclosed.

Sue Berger testified in support of SB 2326. Testimony enclosed.

Senator Sand: Have you any thoughts how we can put the squeeze on any banks?

Sue Berger: Yes, but unfortunately the banks have already thought of that.

Senator Mutch: Explain to me what is a debit card different from a credit card.

Sue Berger: Debit card pulls the money from checking account rather than putting it on a charge account.

Senator Klein: There is a time delay on the debit card not like the credit card.

Senator Thompson: Why aren't the debit cards working the same way as the credit cards are, that they are instant.

Sue Berger: That would be a good question for the people that came up with the debit card.

Senator Mathern: When you run your debit card through sometimes it will sets aside an authorization and it will actually tell the account that this much money has been set aside for that to clear, in the mean time maybe you have written a bunch of other checks and they hit the account and they pull the money out then when that debit card transaction finally comes through two days later the money is already gone. Sometime the financial institution can't control that its the companies like Instant Cash and Check and the First Bank Systems that actually monitor the debit card program.

Senator Klein: This bill would bring together the same penalty as you have if you write an overdraft.

Sue Berger: Right.

Senator Krebsbach: I think that the fact of a debit card is an area that is coming. I just don't think the banks have the proper equipment to deal with them.

Senator Sand: I imagine the banks are doing this so it will be easier and more efficient for them.

Sue Berg: Right, it has to be easier for them.

David Knutson, manager of the Credit Bureau in Bismarck, spoke in favor of SB 2326.

He explained the relationship between checks and debit cards. Debit card really works with check book, this bill puts responsibility on the right person.

Galen Devey spoke in support of SB 2326. Puts liability for those people trying to take advantage of the system back on that individual.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb 2326

Hearing Date 1/26/99

Senator Mutch closed the hearing on SB 2326.

Senator Thompson made the motion for a Do Pass.

Senator Heitkamp seconded.

ROLL CALL: 7 yes, 0 no

CARREIR: Senator Krebsbach

2846194

Date: 1/26/98
Roll Call Vote #: SB 2326

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

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By THOMPSON Seconded By NESTLAMP

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

Total (Yes) 7 No 0

Absent 1

Floor Assignment KREBSBACH

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

REPORT OF STANDING COMMITTEE (410)
January 26, 1999 10:07 a.m.

Module No: SR-16-1194
Carrier: Krebsbach
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2326: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2326 was placed on the Eleventh order on the calendar.

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2326

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2326

House Industry, Business, and Labor Committee

Conference Committee

Hearing Date February 8, 1999

Tape Number	Side A	Side B	Meter #
1		x	17.0-44.0
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

CHAIRMAN BERG OPENED THE HEARING ON SB 2326; A BILL RELATING TO AUTHORIZING AN ELECTRONIC FUNDS TRANSFER WITHOUT SUFFICIENT FUNDS; AND TO PROVIDE A PENALTY.

SENATOR KREBSBACH, Dist. 40, introduced SB 2326. (See written testimony).

SEN. DEB MATHERN testified in support of SB 2326. She said that this will bring it in to fold with other areas of banking and will put it on the same level as checks and sharedrafts.

CHAIRMAN BERG asked if this wasn't already automatic?

SEN. MATHERN said it is automatic, but it simply overdraws the account.

CHAIRMAN BERG asked if this shifts the responsibility back to the consumer.

SEN. MATHERN said the bank will still decide. It just adds to the law to put it on the same line as a written check.

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House Transportation Committee

Bill/Resolution Number Sb 2326

Hearing Date February 8, 1999

SEN. KREBSBACH added that in the future it will be taken care of. Now it isn't a big issue

because so many banks are concentrating their efforts towards the Y2K problem.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2326

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-1-99

Tape Number	Side A	Side B	Meter #
1		x	2965 - 3400
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: **SB 2326**

Chairman Berg opened the discussion of SB 2326.

Rep. Stefonowicz explained the amendments to the committee.

Rep. Klein made a motion for a Do Pass on the amendments.

Rep. Koppang second the motion.

The voice vote was 15 yea, the motion carries.

Rep. Stefonowicz made the motion for a Do Pass as Amended.

Rep. Keiser second the motion. The roll call vote was 14 yea, 0 nay, 1 absent.

The motion carried.

Rep. Stefonowicz will carry the bill.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2326

Page 1, line 17, after "its" insert "authorized"

Renumber accordingly

Date: 3-2-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2326

House Industry, Business and Labor Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass as amended

Motion Made By Stefonowicz Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Berg	/		Rep. Thorpe	/	
Vice Chairman Kempenich	/				
Rep. Brekke	/				
Rep. Ekstrom	/				
Rep. Froseth	/				
Rep. Glasheim					
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No _____

Absent 1

Floor Assignment Stefonowicz

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

REPORT OF STANDING COMMITTEE (410)
March 1, 1999 4:24 p.m.

Module No: HR-36-3814
Carrier: Stefonowicz
Insert LC: 90774.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2326: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2326 was placed on the Sixth order on the calendar.

Page 1, line 17, after "its" insert "authorized"

Renumber accordingly

1999 TESTIMONY

SB 2326

SB 2326
Testimony by Sue Burger, Co-owner, CheckRite of Minot, Inc.
Senate Industry, Business, and Labor Committee
Tuesday, January 26, 1999

Good morning, Chairman Mutch and members of the Senate Industry, Business, and Labor Committee, my name is Sue Burger. I am speaking on my own behalf, as co-owner of CheckRite of Minot, Inc. We collect checks for a nine-county area in North Dakota.

I am here today to urge you to support SB 2326 which will clarify that an electronic funds transfer without sufficient funds is a crime, and will allow a penalty for that crime. The current statute needs to be updated to include electronic funds transfers, or EFT's, as we call them.

There are several kinds of EFT's, but the most common (except for ATM machines) that will affect our merchants is the debit card transaction. This is the card that you present at the point of sale, similar to a credit card, but the funds are withdrawn from your checking account. It is possible for an overdraft to occur, due to the system being down, or for someone who is "speedshopping" - moving from store to store within a few hours. Also, although there may be money in the account at the time of the debit transaction, by the time the EFT actually clears, there may have been checks or other EFT's paid that were presented in the meantime. These systems do not update instantly, and if the system is down, the debit may be accepted.

Another type of EFT is an automatic clearing house transaction, which some of you may use to pay your mortgage or utility bills. For example, I have signed an authorization that allows my bank to release money to my mortgage company on the 5th of each month. I am responsible for those funds being available. I can also do this verbally for a one-time authorization, such as when I re-order my check blanks through Current.

So what happens when there is no money? Several of the banks I spoke to assured me that they would have to cover the item themselves, and if not repaid by the accountholder, that item would go for collection - other banks told me they would try a "redeposit", and if still not collectible, the item would be returned to the merchant the same as an NSF check. However, I found that each bank's policy differed drastically, as you can see on the next page. Their policies could change on a daily basis, and they are not required to go through the legislature for policy changes. We are also concerned because every time a new technology is introduced, the professional criminal will go to work to find a way to make it pay for him. When I talked with several area banks and inquired about my liability on the debit card, I was cheerfully told that I have a \$1500 DAILY limit on that card. When asked what happens if I went on a shopping spree and left the state, the employee replied that it would be my responsibility to "take care of that". My question then was "what if I don't?" She didn't have a clear answer for me, saying that they would have to look at each individual situation. I also found a bank that would let me walk in,

give me a checking account, and give me a debit card, but with only \$100 limit until my credit is checked. If I abuse that card, who covers that loss? We are concerned that the merchants will end up bearing the cost for those returned items in the same way they bear the cost of a returned NSF check - out of their pocket.

Those of you who are business owners know that when your costs increase, your bottom line decreases, and you are faced with absorbing the cost yourself or raising your prices, which eventually will affect all of your customers, not just the ones who used a debit card with no money in the account.

So what happens when it's the bank's error? We currently handle many bank errors, and the EFT's would be handled the same way. The checkwriter has a 30-day dispute time by the Fair Debt Collection Practices Act. In the event of an actual check being written, then redeposited electronically, the checkwriter has a 60 days dispute time. We understand that errors can occur, but when they do, we do not hold the checkwriter responsible, and that item is marked as a bank error.

Because our legislature meets only every two years, it is important that we make a change in this law now to keep it abreast of the changing electronic technology. Thank you.

Questions asked of ten area banks:

Can I obtain a debit card today if I open an account?

9 banks said no, 1 said yes

What daily dollar limit is on that card?

Amounts varied from \$100 to \$3,000 (this is NOT a typo!)

Do you run a credit report before issuing a card?

8 banks said yes, 2 said no

Is it possible for the card to be overdrawn?

8 banks said yes, 2 banks said no (the card will be denied)

Who covers the overdraft if one occurs from a debit card?

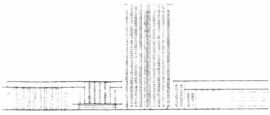
While all banks said the checkwriter is responsible, one bank said the item may be returned to the merchant. Policy was vague on this.

Who covers the overdraft on an automated clearing house transaction?

8 banks said the item would be returned to the merchant, 1 bank said may cover, but will charge fees to checkwriter, and 1 bank said it depends on the individual transaction.

What happens when the card is lost or stolen?

All banks indicated that they would immediately cancel the card, and there would be a \$50 liability to the checkwriter and must be notified within 24 hours, one bank said that would be \$500 if not reported within 48 hours.



NORTH DAKOTA SENATE



Senator Karen K. Krebsbach
District 40
P.O. Box 1767
Minot, ND 58702-1767

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

COMMITTEES:
Industry, Business
and Labor
Government and
Veterans Affairs,
Chairman

IBL COMMITTEE - January 26, 1999

SB 2326

Chairman Mutch & Committee Members:

For the record my name is Karen K. Krebsbach, State Senator
District 40.

SB2326 is being introduced on my behalf at the request of a check
collection service.

It is a simple, up-front bill which includes an overdraft
resulting from an electronic funds transfer in the code.

These transactions will be subject to the same penalties as a
check, draft or order that create an overdraft.

Infraction - Items not more than \$100.00

Class B Misdemeanor - Items more than \$100.00 not more than
\$500.00

Class A Misdemeanor - Items more than \$500.00

This bill brings to date the inclusion of electronically drawn
transactions in the law.

Others here today will explain in detail why this is needed and I
would defer questions to them, the experts. Thank you for your
consideration on this bill.

SB 2326

Testimony by Sue Burger, Co-owner, CheckRite of Minot, Inc.
Senate Industry, Business, and Labor Committee
Monday, February 8, 1999

Good morning, Chairman Berg and members of the House Industry, Business, and Labor Committee, my name is Sue Burger. I am speaking on my own behalf, as co-owner of CheckRite of Minot, Inc. We collect checks for a nine-county area in North Dakota.

I am here today to urge you to support SB 2326 which will clarify that an electronic funds transfer without sufficient funds is a crime, and will allow a penalty for that crime. The current statute needs to be updated to include electronic funds transfers, or EFT's, as we call them.

There are several kinds of EFT's, but the most common (except for ATM machines) that will affect our merchants is the debit card transaction. This is the card that you present at the point of sale, similar to a credit card, but the funds are withdrawn from your checking account. It is possible for an overdraft to occur, due to the system being down, or for someone who is "speedshopping" - moving from store to store within a few hours. Also, although there may be money in the account at the time of the debit transaction, by the time the EFT actually clears, there may have been checks or other EFT's paid that were presented in the meantime. These systems do not update instantly, and if the system is down, the debit may be accepted.

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So what happens when there is no money? Several of the banks I spoke to assured me that they would have to cover the item themselves, and if not repaid by the account holder, that item would go for collection - other banks told me they would try a "redeposit", and if still not collectible, the item would be returned to the merchant the same as an NSF check. However, I found that each bank's policy differed drastically, as you can see on the next page. Their policies could change on a daily basis, and they are not required to go through the legislature for policy changes. We are also concerned because every time a new technology is introduced, the professional criminal will go to work to find a way to make it pay for him. When I talked with several area banks and inquired about my liability on the debit card, I was cheerfully told that I have a \$1500 DAILY limit on that card. When asked what happens if I went on a shopping spree and left the state, the employee replied that it would be my responsibility to "take care of that". My question then was "what if I don't?" She didn't have a clear answer for me, saying that they would have to look at each individual situation. I also found a bank that would let me walk in, give me a checking account, and give me a debit card, but with only \$100 limit until my

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Because our legislature meets only every two years, it is important that we make a change in this law now to keep it abreast of the changing electronic technology. Thank you.

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IBL COMMITTEE - FEBRUARY 8, 1999

SB 2326

Chairman Berg and Committee Members:

For the record my name is Karen K Krebsbach, State Senator District 40.

SB 2326 is being introduced on my behalf at the request of a check collection service.

It is a simple, up-front bill, which includes an overdraft resulting from an electronic funds transfer in the code.

These transactions will be subject to the same penalties as a check, draft or order that create an overdraft.

Infraction - items not more than \$100.00

Class B Misdemeanor - items more than \$100.00 but not more than \$500.00

Class A Misdemeanor - items more than \$500.00

This bill brings to date the inclusion of electronically drawn transactions in the law.

Others here today will explain in detail why this is needed and I would defer questions to them, the experts. Thank you for your consideration on this bill.