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2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2355

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2355**

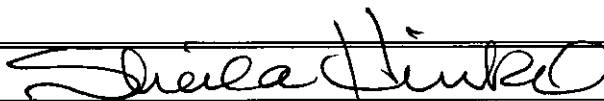
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 29, 2007**

Recorder Job Number: **2110**

Committee Clerk Signature



Minutes:

### **State Senator Arden Anderson – District 25 - In Favor**

#### **TESTIMONY # 1 Reads testimony**

Grants gift certificate recipients the opportunity to receive cash when the cards are down to a nominal balance.

**S Wanzek:** Is there a marking gift or promotional marking?

**A Anderson:** I'm not real familiar with gift certificates. I have purchased and given out. I read from the bill that when the merchants have promotions, bring coupon in from the newspaper, that would not be redeemable, just the purchased certificates.

**S Klein:** I give gift certificates. It's a piece of paper. Is there an outcry? Where's the problem?

**A Anderson:** Not familiar enough to know if there's a problem.

**Q? F? Opposition?**

### **Dave McKiver – ND Chamber of Commerce - In Opposition**

Whenn a person who has a gift certificate redeems the certificate, they have a balance on the card. There is a cost that goes into the cards. It's not just "free thing" that happens. What you're asking is for the clerk at the check out to figure 25% in their head, so if they have \$11.35, they'd have to figure 25%. We'd have to have cash registers with 25% set up.

**S Klein:** Bring the committee up-to-date on gift certificates from last session.

**D McKiver:** Prior to last session, there was a deadline, it was 2 months and we made it now to 6 years. Also, you'd lose a dollar for every month that passed. We changed all that.

**S Wanzek:** there is nothing to stop a merchant from doing this today.

**D McKiver:** yes, you can do it for yourself as a merchant.

**S Wanzek:** I would suggest a food gift certificate, that always gets used up.

**S Potter:** I got a golf certificate, does that get extended to go 6 years if it is expired?

**D McKiver:** Yes

**S Potter:** Does this reduce opposition or eliminate opposition?

**D McKiver:** It reduces opposition. Cost of gift cards would not be a good thing.

**S Behm:** If its less than \$5, where's the extra cost?

**D McKiver:** The cost is in purchasing gift cards themselves and then giving a discount for the cards. [example 9:29m ] Huge corporations give \$10,000 in gift cards, want 5% discount.

They've already given a discount

**S Klein:** Is there resistance among membership. Is there a problem?

**D McKiver:** We've never heard it before this bill.

**S Potter:** Merchants have factored in the cost to get down to this level.

**D McKiver:** There are a certain amount that will not be redeemed.

**S Heitkamp:** Are there a % that are never redeemed? Coupons are then never paid off.

**D McKiver:** There is. I don't have the numbers of the National standard, and don't know in ND.

**S Heitkamp:** Would that be enough to set up cash registers?

**D McKiver:** Standing in line while cash clerk is waiting to cash out a cash card.

**S Heitkamp:** Are you in favor of all the amendments from last time?

**D McKiver:** Yes

**S Klein:** When in the grocery business, every dollar is used.

**S Wanzek:** 2 questions. 1. Added costs – results in extra record keeping. 6 years, isn't that a potential liability. Don't they have to keep a record?

**D McKiver:** Yes, there is a firm record. It's been proposed for 3 years.

**S Wanzek:** 2. When people come to get a card they set it up.

**D McKiver:** Yes, most cards will get used.

**Nicky Wiseman – Hospitality - *In Opposition***

[15:58m]

**S Hacker:** why \$5? You can cash it in anytime.

**N Wiseman:** No, you can't get cash.

**S Heitkamp:** You're right, you have to purchase something. If I have a gift certificate for \$100 and the bill is \$95, why not? They're not at risk.

**N Wiseman:** I didn't know there were amendments. Talk about McDonalds, that does cause problems.

**S Heitkamp:** If you try to use the card and don't use it all up, you go over the amount to use the rest of the card up.

**N Wiseman:** Problems might arise.

**Kim Levine – East 40 Chophouse - *In Opposition***

In December, there were sales of approx. \$18,000. It was about \$100 a card. If I had to give back out of our till cash of \$500 it would not be good. We're not set up for that. People hit us up for donations all the time. Then we don't have cards. If there is a \$5 or \$3 left on the card, people will usually leave that for the waitress as a tip.

**S Potter:** When you get a gift certificate from St. Mary's Carnival, is that one of yours?

**K Levine:** Yes. We donate to the carnival. We actually never receive cash from St. Mary's, we just donate.

**J Klein:** You're constantly being asked for donations?

**K Levine:** Yes, all the time, churches, athletic groups, lots of organizations. Can't list them all.

**S Wanzek:** I think it is a reasonable request. Don't you make judgment call? Can't you make the decision yourself?

**K Levine:** Yes

**S Heitkamp:** How many did you say?

**K Levine:** What the % are redeemed by January, with credit cards run through. We reverse gift cards.

**S Heitkamp:** ½, ¼, All?

**K Levine:** 30%

**S Heitkamp:** Isn't that a chunk of change?

**K Levine:** They are 90 cents each and one dollar for an envelope.

**S Heitkamp:** For people who don't redeem them, you're up a lot of money.

**S Klein:** Do they charge to fill the card?

**K Levine:** There are transaction costs.

**S Klein:** So the merchant pays those fees.

**S Potter:** When the servers get the balance as tips, do they get it at the end of the night.

**K Levine:** We give them cash at the end of the night.

**Linda Fischer – Neutral**

National average is 17-20% unredeemable as shown on MSNBC.

**S Wanzek:** Is that the merchant's fault?

**L Fischer:** If you look at it, they use it as a promotion. 17-20% cards will never be cashed in.

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Senate Industry, Business and Labor Committee

Bill/Resolution No. **SB 2355**

Hearing Date: **January 29, 2007**

**S Hacker:** If 17-20% are not cashed in, what is there value? What is the number sold?

**L Fischer:** 17 cents on the \$1 are never redeemed.

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2355 B**

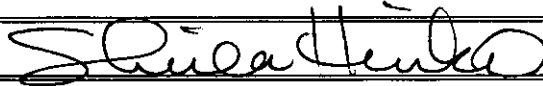
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 31, 2007**

Recorder Job Number: **2445**

Committee Clerk Signature



Minutes:

**S Klein:** I was reminded of the \$18,000 earning interest while it's in the bank, and that is an incorrect statement, in a corporate account, you get no interest, so I wanted to make sure everyone understood that.

**S Heitkamp:** This is the same individual that said, those are the ones that go unredeemed cost 90 cents for the card.

**S Klein:** it's 90 cents for the card, but there is a cost of loading

**S Wanzek:** I think it's 90 cents each card.

**S Heitkamp:** A card that goes unredeemed. If you buy a card for \$50 and it goes unredeemed, it's tough to make an argument up there, that "Boy, I'm out 90 cents."

**S Wanzek: Motion to DO NOT PASS**

**S Hacker: Second to Motion**

**S Potter:** A pox on both your houses. As far as I'm concerned the \$5, in forcing them to give them \$5 or less, is just silly, I think those that argued against it were totally out of the realm. No reality to what they had to say, they were just arguing for the sake of arguing. I don't know how to vote on this one. I should leave the room.



**S Heitkamp:** Many times they leave for a tip. There is some merit to the bill. So 17-20% go unredeemed, that's A LOT.

**S Klein:** I maybe agree on the national level, but in my small community, where buy \$5 gift certificates for their friends, they use it all up. Their intent is to have provided some food items. I have some tell me they don't want them to buy cigarettes. In our community, no one wastes a dime.

**S Heitkamp:** Two classes. Class of Jerry's Jack N Jill where you provide a service, I don't think you are making that much money, if any on yours and yet getting hit up by every booster club in town. But when you're doing \$18 K? They probably brought in THE WORST example. She's a nice person who's running a good restaurant. There needs to be one or two green lights for this.

**S Behm:** If I got a certificate, I use it up, it's mine.

**S Potter:** Where I am getting scammed, I got a certificate from Scheels, I took them in and bought \$96.00 of items and handed me back a \$3.40 gift card. You know, I'll never, every use it. When I go back, I won't remember the card, I got ripped off, I'll remember that.

**S Klein:** In the case of the East 40, if you got \$10 left over, you're going to go back, spend the ten and another \$80. All about bringing you back.

**S Wanzek:** He'll remember it, he'll take some action against the business, It's just \$5, this is not something that is necessary for legislative mandate. Let the market work out. It's not necessary to go this far. You don't have to shop there, do business there. It's a responsibility of person.

**S Behm:** [talked about a rebate]

**S Hacker:** Some companies send out \$5 gift cards: Coffee, Cabellas, casinos, etc. Lots of times they are just for promotion. If this were to pass, they are going to STOP sending those out.

**S Wanzek:** This is called "marketing" and as a farmer, we see it all the time. With seed companies, you see hats, caps, coats, whatever, and you hear, "Why don't they just lower the price of my seed?" the ones that do and don't give out the hat don't get the sale. It's marketing.

**Motion DO NOT PASS 2355 - Wanzek**

**Second by Hacker**

**VOTE: 4 – 2 – 1 [Decline: Heitkamp & Potter]**

**Carrier: Wanzek**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2355

Page 1, line 13, remove "or twenty-five percent of the value of the gift certificate."

Page 1, line 14, remove "whichever is less"

Renumber accordingly

#1 B  
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**REPORT OF STANDING COMMITTEE**

**SB 2355: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO NOT PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2355 was placed on the Eleventh order on the calendar.**

2007 TESTIMONY

SB 2355

**SENATE BILL 2355**

Mr. Chairman & members of the Committee: For the record, I'm State Senator Arden Anderson of District 25.

**Senate Bill 2355** proposes to grant gift certificate recipients the opportunity to receive cash when their cards are down to a nominal balance.

The original draft was rather confusing so an amendment is proposed to make it as simple as possible.

As amended, a person in possession of a gift card—originally issued in excess of \$5.00—will have the opportunity to receive cash for any balance remaining under \$5.00.

Lines 16-20 declares that the refunds would only apply to certificates purchased by consumers and would not apply for any certificates or other promotional programs of a merchant.

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