

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2164

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2164

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2164

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-24-05

Tape Number	Side A	Side B	Meter #
1	x		2940-end
1		x	50-706
Committee Clerk Signature <i>Lisa Van Berkum</i>			

Minutes: **Chairman Mutch** opened the hearing on SB 2164. All Senators were present.

SB 2164 relates to increasing fees and costs for checks issued on closed accounts and accounts with insufficient funds.

Sue Burger, CO-owner of CheckRite of Minot, Inc., introduced the bill. See attached testimony.

Senator Klein : In the last few years, business has been good? I mean people are writing a lot of NSF checks?

Sue: Right.

Senator Klein : I think that is why, as businesses, we look for someone else to start doing that work for us because it is overwhelming to try to track down, follow up and make calls.

Is there anything we can do to lower the amount of bad checks?

Sue: When someone goes in to open an account at the bank, they could run the name through a check system to see if they have had accounts elsewhere that have been closed and if they have prior history.

Senator Heitkamp: What is the over all goal? Can't the fees get too high?

Sue: We work first for the merchants, we waive a lot of fees.

Senator Mutch: What does the business man get out of it financially?

Senator Klein: A charge of seven dollars.

Senator Nething : This is an alternative for them to try to recover something.

Senator Heitkamp : You can hardly write a check now. Is this needed to keep the ability to write checks?

Sue: People have said that for years, but the checks are still coming in.

Senator Nething: We are only increasing the fees in this bill, correct?

Chairman Mutch : Right.

Senator Krebsbach: When they raised this fee four years ago, what were the banks charging?

Sue: Twelve to fifteen dollars, I believe.

Senator Krebsbach: What percentage would you say that your costs have increased in that amount of time?

Sue: I didn't bring the numbers, I simply know that our bottom line is not what it used to be.

Tim Karsky, Dept. of Financial Institutions, spoke in support of the bill, with offered amendments. See attached information.

Senator Nething : Your amendments has nothing to do with the amount of the fee?

Tim: That's correct.

Senator Nething: The bill does, so how do you stand on the bill?

Tim: We have a concern about how the fee is collected.

Chairman Mutch: How is the clearing house used?

Tim: It is for automatic payments, like insurance premiums.

Senator Nething : If the amendment has to be changed to amend the title as well, it seems.

Senator Krebsbach: The people that are proponents of this bill are in accord with what you are presenting with this amendment?

Tim: Sue wanted to make sure that we could use a recorded type of message. The amendment that we offer is only from the automated clearing house language.

Mike LeFor, Legislative Director for North Dakota Collectors, arose to answer a question of Senator Krebsbach.

Mike: The cost of collecting an NSF check is about nineteen to twenty-one dollars, without rebates.

Sue: I just became aware of the amendment this morning. We do follow the NACHA law. I would like to work with Tim before it goes through.

Scott Miller, Attorney General's office, spoke to clarify NACHA rules.

Senator Krebsbach: What language would you suggest to be used?

Scott: Under the NACHA rules, I don't know what would work.

Senator Klein: Maybe after the hearing you guys (Sue and Tim) can work together on an amendment that you both like.

Jeff Stremich, CO-owner of CheckRite of Minot, wanted to go on record in support of the bill.

There was no opposition. Hearing was closed. No action was taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2164

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-31-05

Tape Number	Side A	Side B	Meter #
2	xxx		5,000
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: **Chairman Mutch opened the committee discussion on SB 2164. Senator Heitkamp was absent. Senator Espgaard was also absent. SB 2164 relates to increasing fees and costs for checks issued on closed accounts and accounts with insufficient funds.**

Senator Krebsbach presented amendments to the committee.

Senator Krebsbach moved to adopt the amendments.

Senator Klein seconded.

Roll Call Vote: 5 yes. 0 no. 2 absent.

Senator Krebsbach moved a DO PASS AS AMENDED.

Senator Klein seconded.

Roll Call Vote: 4 yes. 1 no. 2 absent.

Carrier: Senator Krebsbach

Date: 1-31-05
 Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2164

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments

Motion Made By Krebsbach Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	A	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	A				

Total (Yes) 5 No 0

Absent 2

Floor Assignment _____

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

Date: 1-31-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2164

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Krebsbach

Seconded By ~~Espegard~~ Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield		X
Senator Klein, Vice Chairman	X		Senator Heitkamp	A	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	A				

Total (Yes) 4 No 1

Absent 2

Floor Assignment Krebsbach

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

REPORT OF STANDING COMMITTEE

SB 2164: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). SB 2164 was placed on the Sixth order on the calendar.

Page 2, line 14, after the period insert "If the holder of the check or the holder's agent or representative uses the automated clearinghouse network to collect the collection fees or costs, that individual shall comply with the network's rules and requirements."

Renumber accordingly

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2164

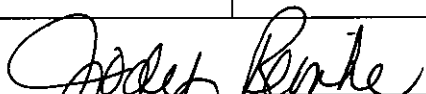
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2164

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-15-05

Tape Number	Side A	Side B	Meter #
1	x		52.2-end
1		x	0-45.8
Committee Clerk Signature 			

Minutes:

Chairman Keiser: Opened the hearing on SB 2164

Senator Krebsbach: Appeared in support of the bill and also was a sponsor. Why are these agencies requesting this change? Someone is here to day to tell you why and that would be Sue Burger from Minot.

Sue Burger, CheckRite of Minot, Inc.: Appeared in support of the bill and provided a written statement (SEE ATTACHED TESTIMONY).

Representative Dosch: Are the banks limited to what they can charge for a fee?

Sue Burger: To my knowledge I would say no, they are not.

Scott Mueller, Assistant Attorney General, ND: I am here on the Department of Financial Institutions behalf and the part of the bill that we here in favor of, is the language that the industry and the department agreed upon on page 2, lines 14-16, for some reason the amendment that we had submitted changed the person to individual on 16 on page 2, it says individual

instead it should say person, which is defined to include companies, corporations, and partnerships.

Melanie Mason, Employee of CheckRite: Appeared in support of the bill.

Representative Ekstrom: I MOVE to ADOPT amendments on SB 2164

Representative Ruby: I SECOND the motion to adopt amendments.

Motion carried **VOTE: 12-YES 0-NO 2-Absent (KASPER, BOE).**

Representative Ekstrom: I move a DO PASS as AMENDED on SB 2164.

Representative Ruby: I SECOND the DO PASS as AMENDED.

Motion carried **VOTE: 10-YES 2-NO 2-Absent (KASPER, BOE)**

Representative Johnson will carry the bill on the floor.

Date: 3-15-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. B. 2164

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment

Motion Made By Rep Ekstrom Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigesaa					

Total (Yes) 12 No 0

Absent (2) Kasper & Boe

Floor Assignment _____

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

Date: 3-15-05
 Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. B 2164

House INDUSTRY, BUSINESS AND LABOR Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Ekstrom Seconded By Ruby

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	A	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe		X
Rep. M. Dosch		X			
Rep. G. Froseth	X				
Rep. J. Kasper	A				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 10 No 2

Absent (2) Kasper & Boe

Floor Assignment Rep. N. Johnson

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

REPORT OF STANDING COMMITTEE (410)
March 15, 2005 2:29 p.m.

Module No: HR-47-5064
Carrier: N. Johnson
Insert LC: 50275.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2164, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2164 was placed on the Sixth order on the calendar.

Page 2, line 16, replace "individual" with "person"

Renumber accordingly

2005 TESTIMONY

SB 2164

1-24-05


TESTIMONY FOR SENATE BILL NO. 2164

Senate Industry, Business, and Labor Committee


Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions, in support of Senate Bill No. 2164.

Chairman Mutch and members of the Senate Industry, Business, and Labor Committee, I am Tim Karsky, Commissioner of the Department of Financial Institutions, and I am here today to testify in support of Senate Bill No. 2164 as amended.

Mr. Chairman and members of the Committee, as already indicated this morning Senate Bill No. 2164 simply raises the amount that a holder of a check can charge on NSF fees. As indicated previously, this fee would go from \$25 to \$30. Mr. Chairman and members of the Committee, the Department of Financial Institutions feels this is up to the legislative assembly. However, the Department does have concerns with how this nonsufficient fund fee is collected by the holder of the check. The Department knows of individuals and collection agencies that wish to collect a nonsufficient fund fee by way of the automated clearing house or electronic presentment. Currently, the automated clearing house network requires that a written authorization must be in place before a nonsufficient fund fee can be collected through the automated clearing house network. However, the



Department realizes there is some confusion since federal regulations set forth the minimum requirements which only require that a notice be posted on a cash register. This is, however, a minimum requirement and individual states can set higher standards. As indicated previously, anyone who wishes to use the automated clearinghouse network must follow those rules which strictly state that a written authorization is needed before collecting an NSF fee. The Department feels this amendment will clarify the Department's position and will clear up any ambiguities in the law.



Mr. Chairman and members of the Committee, I would be happy to answer any questions you may have, and I would urge your support of Senate Bill No. 2164 as amended.

Thank you.

Tim Karsky

PROPOSED AMENDMENT TO SENATE BILL NO. 2164

Page 2, line 14, after the period insert "If the holder of the check or the holder's agent or representative uses the automated clearinghouse network to collect the collection fees or costs, a signed or similarly authenticated written authorization must be obtained from the check writer and retained for a period of three years."

Renumber accordingly

Testimony on Senate Bill 2164

January 24, 2005

Senate Industry, Business, and Labor Committee

Senator Mutch and members of the Industry, Business, and Labor Committee:

My name is Sue Burger, and I'm speaking on my own behalf, as co-owner of CheckRite of Minot, Inc. We specialize in check collection for the NW area of North Dakota. I'm here today to urge you to support SB 2164, which would raise the check fee by five dollars.

Our last increase was **four years ago**, from \$20 to 25 – since that time, we have seen continuing increases in wages, payroll taxes, health care, mileage costs, and errors and omissions insurance. Proposals to raise our licensing fee and to raise minimum wage drastically are now before the legislature, and the US Postal Service is seeking a 2006 postal hike for first class postage from 37 cents to 41 cents according to the Wall Street Journal. If even one of these increases go through, it will add to our current expense of education and training to avoid lawsuits, and up-to-date technology to stay on top of the newest trends. Thanks to the internet, some debtors have become more and more sophisticated and talented at avoiding their debts, rather than focusing on debt management.

For the last ¹⁴ 8 years, this NSF law has required us to rebate to the merchant \$2.00 from our fee to help them recover their bank cost of having an item returned on their account. Recently a Minot bank informed their business customers that a returned check will now result in a debit to their account of \$7.00 - imagine running a restaurant, depositing a \$10 check, and having a total of \$17.00 pulled from your account. As a result, those merchants expect us to rebate back just a little bit more from our \$25 fee. **The surrounding states all have had \$30 fees** for some time while also enjoying **lower bond requirements**. A map is attached. Keep in mind those states **don't have the rebate requirement**. One of those states **doesn't even require a notice be sent**, the fee is simply "imposed immediately." Imagine the postage savings!

Not all fees are collected, either. Many are waived or reduced because a family member is helping, or a bankruptcy has been filed. We continue to see a rise in forgeries and fraud, and even though we can't collect a fee on those, we process them as a service for the merchant. We work closely with the police, sheriff's department, and states attorney's offices.

Many of you are business owners – if collection agencies cannot afford to effectively collect your bad checks, you have the choice of absorbing the loss or passing it on to your customers by raising your prices. **We do not have the luxury of "raising our prices" when our costs go up like they have the last four years. If our income is frozen, we would like our expenses frozen for the next two years also.**

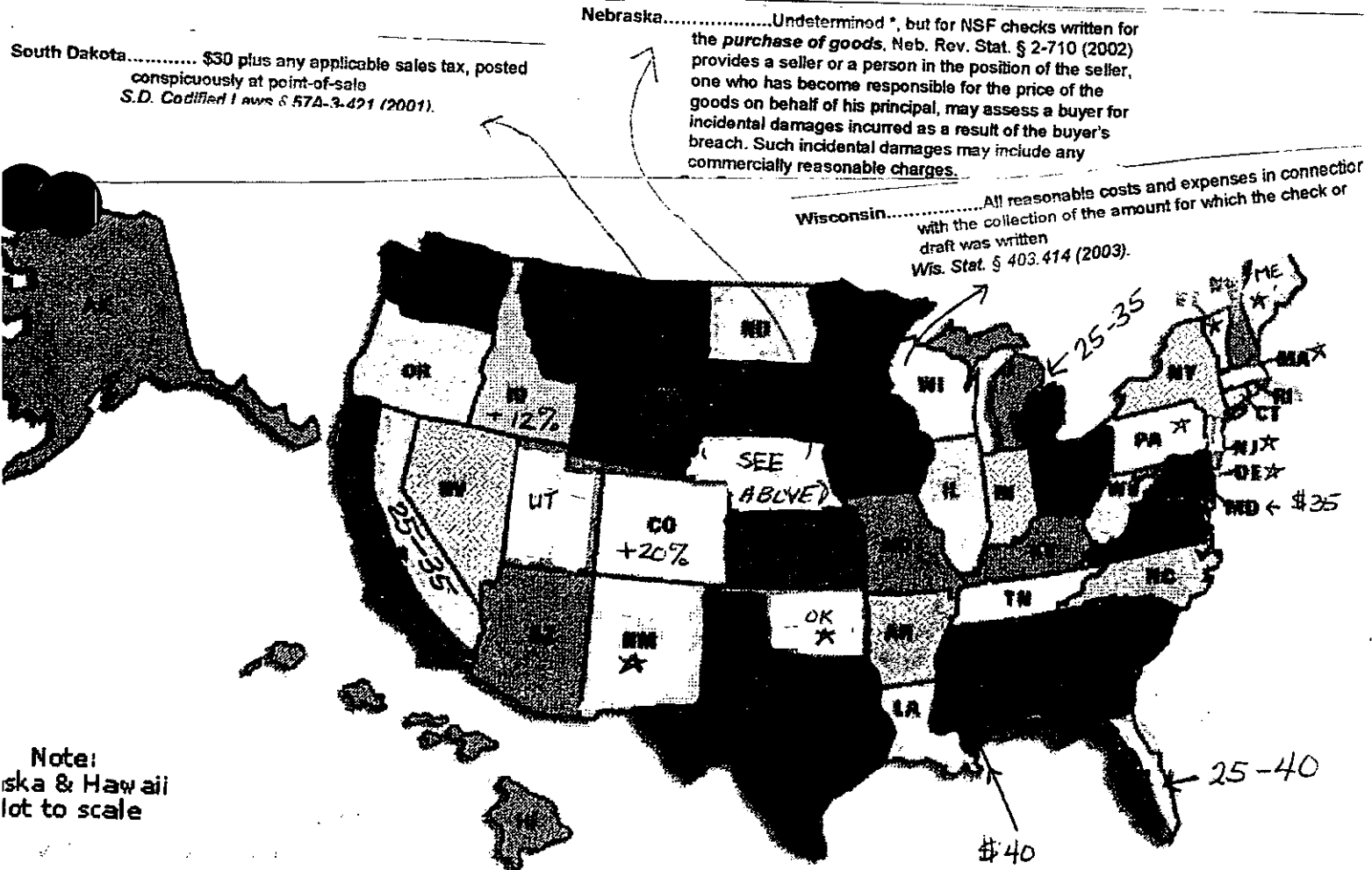
Our merchants need us – they want us to do what we do best, and allow them time to operate and grow their ND businesses. We do not charge the merchant for our services because we firmly believe that the person who caused the problem should bear the cost. Our goal is get these checks paid, remit 100% back to the merchant, and keep the checks out of the court system. I urge you to support SB 2164 in order that ND collection agencies can continue to recover bad debt for these merchants. Thank you.

Chamber of Commerce Business Report 9/2004:
STUDY SAYS HEALTH INSURANCE THE MOST COSTLY BENEFIT

A new report has found that the cost of employee health insurance has edged out paid leave as the most expensive benefit for employers. According to the Employment Policy Foundation, a Washington DC-based research group, health insurance benefits accounted for 23% of non-wage employee compensation in the 1st quarter of 2004. Paid leave, including paid vacations and sick leave, was the second most expensive benefit, accounting for 22.6% of non-wage employee compensation. "Employers have spent \$330.9 billion for employee health insurance in 2003. The cost of employee health insurance has increased over 51% since 1998, when the total spent by employers was only \$218.6 billion," Ed Potter, EPF president, said. The report states that health insurance costs have been rapidly increasing and far outpacing inflation. "Since 1999, the per-employee hour cost of health insurance benefits to employers increased more than 100%," Potter said. "This represents a significant disadvantage for American companies as they compete against foreign firms whose health care cost burden is substantially less." As costs for health insurance have increased, the number of employees not covered by employer-provided health insurance has also increased. In 1999, 53% of employees participated in an employer-sponsored health insurance covered only 45% of employees. The full study is available online at www.epf.org/pubs/newsletters/2004/et20040803.pdf

News items:

U.S. Postal Service wants price hike. The U.S. Postal Service is set to ask early next year [2005] for a rise in postage stamp prices of at least 10 percent, the Wall Street Journal reported on Wednesday [11/24/2004]. The increase — expected to take effect in early 2006 — would be the fourth round of price hikes in recent years and lead to a first-class stamp costing at least 41 cents, up from 37 cents currently, the paper said.



Note: Alaska & Hawaii not to scale

[Solid Black] 30 OR HIGHER
 25-29 + INT, EXTRA 7%, ETC.
 20 + INT, EXTRA DAMAGES, OR 7% OF CK. AMOUNT
 * - UNDETERMINED BY STATE LAW.

Testimony on Senate Bill 2164

March 15, 2005

House Industry, Business, and Labor Committee

Chairman ^{Keiser} ~~Keiser~~ and members of the Industry, Business, and Labor Committee:
My name is Sue Burger, and I'm speaking on my own behalf, as co-owner of CheckRite of Minot, Inc. We specialize in check collection for the NW area of North Dakota. I'm here today to urge you to support SB 2164, which would raise the check fee by five dollars.

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Many of you are business owners – if collection agencies cannot afford to effectively collect your bad checks, you have the choice of absorbing the loss or passing it on to your customers by raising your prices. **We do not have the luxury of "raising our prices" when our costs go up like they have the last four years. If our income is frozen, we would like our expenses frozen for the next two years also.**

Our merchants need us – they want us to do what we do best, and allow them time to operate and grow their ND businesses. We do not charge the merchant for our services because we firmly believe that the person who caused the problem should bear the cost. Our goal is get these checks paid, remit 100% back to the merchant, and keep the checks out of the court system. I urge you to support SB 2164 in order that ND collection agencies can continue to recover bad debt for these merchants. Thank you.

3-15-05

Scott Mueller asst.
Atty General
amendments

PROPOSED AMENDMENT TO ENGROSSED SENATE BILL NO. 2164

Page 2, line 16, replace "individual" with "person"

Renumber accordingly