

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2286

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2286

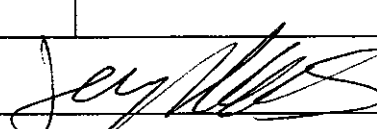
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2286

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date January 26, 2005

Tape Number	Side A	Side B	Meter #
1	X		3,340-End
		X	1-650
Committee Clerk Signature 			

Minutes: **Senator Mutch** opened the hearing on SB 2286. All Senators were present.

Senator Fairfield introduced the bill which relates to unfair trade practices and gift certificates.

Gift certificates are one of the ways that retailers make the shopping and gift giving experience more rewarding for both the consumer and those who receive the gifts. The bill requires an expiration date must be displayed on the front of the card, and prohibits the use of the expiration date less than 5 years from the date of purchase. The intent of the bill is to cover gift certificates that money has been exchanged for. The bill also prohibits service fees and fees for dormancy. Many states have put forth similar legislation to SB 2286. The gift certificates are not redeemable for cash.

Marilyn Foss appeared on behalf of the ND Bankers Association proposed an amendment to the bill. See attached.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2286

Hearing Date January 26, 2005

Dave Mac Iver appeared on behalf of the ND Chamber of Commerce. We would support the amendments that have been offered. Any fees should be listed when you buy a product such as a gift certificate. His position on the bill would be neutral.

Senator Fairfield- Do you know about the states that have eliminated expiration dates, has their been a negative impact?

Dave- I have not studied the issue to that extent.

Senator Fairfield- If it had multiple businesses that you could purchase at, would it alleviate that concern?

Dave- Yes.

Senator Krebsbach- Does there have to be money exchanged for the purchase of the gift certificate for promotions at the mall, for example.

Dave- There is money exchanged for the purchase of those gift certificates.

Senator Fairfield- There is no trouble having the expiration date extended for chamber bucks from my own personal experience.

Don Forsburg, Executive Vice-President of Independent Community Banks of ND, presented a handout to the committee. See attached. He is neutral on the bill, but supports the amendment.

Senator Heitkamp- The amendments take care of your concern?

Don- Yes.

Senator Klein- If a small business wants to participate in this program, the fee will be charged to the merchant, but the recipient of the card will get the full value less a percentage?

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2286

Hearing Date January 26, 2005

Don- If the merchant sells the cards, they would get money for the value of the card upfront. It would only be useable in your store.

Linda Fisher, the unclaimed property administrator for ND, appeared in opposition to the bill. See written testimony attached.

The hearing was closed with no action taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2286

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-08-05

Tape Number	Side A	Side B	Meter #
1		xxx	4830-5000
Committee Clerk Signature <i>Lisa VanBerkers</i>			

Minutes: **Chairman Mutch** allowed committee discussion on SB 2286. **Senator Fairfield** was absent.

There was no discussion from the committee.

Senator Klein moved a **DO NOT PASS** on SB 2286.

Senator Klein: I visited and after we vote on this, I would like you to hold this because there is a bill out there that is a little more restrictive.

Senator Klein moved a **DO NOT PASS**. **Senator Nething** seconded.

Roll Call Vote: 4 yes. 3 no. 0 absent.

Carrier: **Senator Klein**

Date: 2-8-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 00010

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Klein Seconded By Nothing

[illegible]

Total (Yes) 4 No 3

Absent 0

Floor Assignment Klein

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

REPORT OF STANDING COMMITTEE (410)
February 8, 2005 3:03 p.m.

Module No: SR-25-2176
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2286: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2286 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

SB 2286

1707 North 9th Street
PO Box 5523
Bismarck, ND 58506-5523
Phone: (701) 328-2800
Fax: (701) 328-3650



www.land.state.nd.us
www.discovernd.com

Gary D. Preszler, Commissioner

**TESTIMONY OF LINDA FISHER
Unclaimed Property Administrator
North Dakota State Land Department**

IN OPPOSITION TO SENATE BILL NO. 2286

**Senate Industry, Business and Labor Committee
January 26, 2005**

So you might be wondering why anyone would oppose a bill that seeks to protect the consumer.

We oppose this bill, not because we necessarily think it's a "bad" bill, but because we feel that Senate Bill 2335, which will be heard tomorrow evening by the Senate Judiciary Committee, is more comprehensive and does a better job of addressing the big picture of gift certificates.

SB 2335 not only protects the consumer but further provides for the unclaimed property division to receive funds for unredeemed gift certificates and hold them in custody for the owner and the benefit of the common schools trust fund, just as it receives funds for other types of unclaimed financial assets. The bill before you, without the reporting provision, doesn't protect the owner's right to the property forever as unclaimed property does, and proceeds for unredeemed certificates benefit solely the issuer.

TESTIMONY OF MARILYN FOSS PROPOSING AN AMENDMENT TO SB 2286

Chairman Mutch, members of the IBL Committee, I am Marilyn Foss, general counsel for the North Dakota Bankers Association (NDBA). We are proposing an amendment to distinguish bank issued stored value cards that are used as payment instruments from gift cards which are sold by retailers and used only for a later purchase of the selling retailer's products; our proposed amendment excludes bank issued stored value cards from the bill. I also want to alert the committee to SB 2335 which was introduced late last week. SB 2335 also addresses gift certificates sales, fees, and inclusion of funds which are not expended as unclaimed property.

The amendment we are proposing adds another subdivision to subsection 4 of the proposed statute. It is taken from SB 2335. However, in the interests of full disclosure, I should tell you that our members are reviewing this matter and we may suggest additional "tweaking" for cards that banks sell to businesses and for debit cards.

The reason we want our laws to distinguish between retail gift cards and stored value cards that are sold by banks is that they are not the same product. They have different purposes and protections and function differently. A retailer sells a gift certificate or gift card to increase sales of the retailer's goods or services. And the cards do achieve that end. . . . statistics indicate that more than 2/3 of the time a person who is using a retailer gift card will make purchases in amounts that are greater than the value of the card. Additionally, funds represented by retailer gift cards that have expired are not subject to state escheat requirements that apply to unexpended balances that are carried on accounts by banks. Most retailers treat their retail gift cards like cash; if it's lost or stolen, it's gone.

A bank stored value card is a payment instrument just as a credit card or cashier's check is a payment instrument. They are "branded" and are accepted wherever a same branded credit card is accepted. Bank cards are also afforded the protections that apply to bank issued credit cards, including protections against loss and theft. They can be redeemed for value which is not expended. For a bank, the stored value card is the product that is being sold. Let there be no question about it, banks charge fees for this product. Customers who don't want to pay the fees don't purchase it. The customers who buy a stored value card product do so because it enables them to pay for goods and services from merchants not affiliated with the bank and to do so easily, conveniently and safely.

Very few North Dakota banks sell stored value payment cards. That is because a significant investment is required by banks to offer and service the product. Banks won't make that investment or offer the product if they can't recover their costs and make a return on their investment. If the \$1 fee provision of this bill becomes the law and applies to bank stored value card products, the banks which currently offer stored value cards in North Dakota tell me they will stop doing so.

Bank customers who buy stored value cards know the costs they pay for the product and are given full disclosures of those costs. They know there are costs and if they don't want to incur them, they don't buy the product. It's that simple.

NDBA asks you for your favorable consideration of the proposed amendment.
Thank you.

PROPOSED AMENDMENT TO SB 2286

Page 2, after line 5, insert "c. General-use prepaid cards issued by a third-party prepaid card issuer which means plastic cards or other electronic payment devices which are: (1) usable at multiple, unaffiliated, merchants or service providers and/or at automatic teller machines ("ATMs"); (2) issued in a requested amount which amount may be, at the option of the issuer, increased to value or reloaded if requested by the holder; (3) purchased and/or loaded on a prepaid basis by a consumer and shall not include debit cards linked to a deposit account, or cards purchased by a business entity; and (4) honored upon presentation by merchants for goods or services, or at ATMs."

Renumber accordingly

Birthday

are the top purchase occasion for gift cards... which means that now is the best time to launch a gift card program.

Merchant Gift Card! My Company

INCREASED INCOME

Gift Cards are often the fastest growing source of selling space in any store. Merchants can expect a 10% increase in sales from gift cards. Merchants can expect a 10% increase in sales from gift cards.

MARKETING TOOL

Cards improve brand awareness and loyalty. Cards provide a powerful marketing tool for a wide range of businesses. Cards provide a powerful marketing tool for a wide range of businesses.

SALES PROMOTION

Cards provide a powerful marketing tool for a wide range of businesses. Cards provide a powerful marketing tool for a wide range of businesses.

A Card

is a connecting point between YOU and your customers.

(And the customers you'd like to have.)

Gift Cards

connect you to two customers—the gift giver and the gift receiver.

Loyalty / Reward Cards

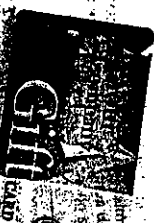
connect you to more of your customers, more often.

Prepaid Value Cards

connect you to a stream of guaranteed future business.

Promotional Cards

connect you to the new customers your business needs to succeed.



Every card

builds a connection

that builds your business.

Gift Cards are... *giving a first-choice gift idea.* —*Amelia, City Business Journals*

The average value for gift cards in 2003 was \$50, up from \$44 in 2002. —*Credit Card Management*

Gift Cards outsold paper gift certificates \$45 billion vs \$6 billion in 2003. —*The Nilson Report*

#1 Stored Value Card Solution

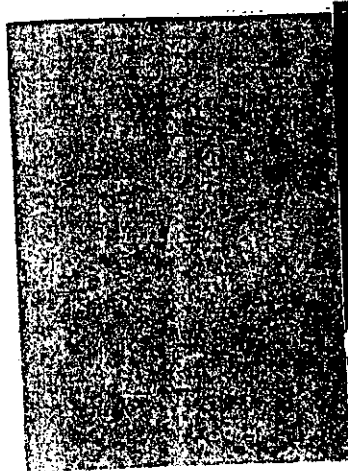
THE VALUECARD ADVANTAGE

- Versatility - systems compatibility with a wide variety of terminals and POS environments
- Reliability - market-proven data processing systems, reporting & money management
- Customization - complete merchandising, card design and production services
- Expertise - the know-how to help merchants achieve their highest sales potential
- Data Management - cardholder data capture and reporting for marketing & security
- Fulfillment - warehousing and deployment of materials for gift & loyalty card programs
- Support - 24/7, toll free customer service and technical support
- R & D - ongoing technology & product development to ensure future competitiveness

ValueCard Solutions is a financial transaction processing company providing comprehensive electronic Stored Value, Gift and Loyalty Card services to small and midsize merchants of all industry types. A ranking based on an independent survey of total number of individual merchant customers as of December 31, 2003. Starbucks, Barnes & Noble, The Home Depot, are registered trademarks of those companies. "Flashing Memo" and related marks are copyrighted words of Polar Animation Studio.

FOR MORE INFORMATION, CONTACT:

ValueCard Solutions
GIFT & LOYALTY CARD SYSTEMS



Gift & Loyalty Card Programs

Quick Reference Guide



STANDARD OR

Custom Cards

What can you do with a Stored Value Card?

Using a basic credit card terminal, you'll be able to sell and process high-profit Gift Cards, increase repeat business with Reward Cards and Prepaid Value Cards, or attract new customers using Promotional Cards in a wide variety of ways—just like the national retailers such as Starbucks, Barnes & Noble and The Home Depot.

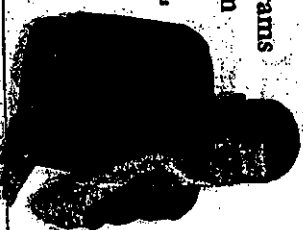
We provide every ingredient necessary for you to maximize your sales results.

- ✓ Premium-quality card design & production
- ✓ In-store displays & merchandising
- ✓ Secure, real-time transaction processing
- ✓ Program activity reporting
- ✓ 24/7 customer support

4 Card Programs with 1 System

1. Gift Cards
2. Loyalty/Reward Cards
3. Prepaid Cash Cards
4. Promotional Cards

Our system gives you all the card options you need to run every viable card program.



PROMOTIONAL CARD IDEAS: Run a "Mystery Card" sale-and-win campaign to drive more customers in the door for a sale or event. Simply pre-load a quantity of cards with \$5 of value, two cards with \$50, and one card with \$100 (set the amounts to fit your type of business). Then mail or distribute the cards with a promotional piece that invites customers to come into the store to discover how much their card is worth. Plastic cards loaded with value have been proven in the marketplace to generate significantly more response than paper discount coupons.

Have a marketing idea? Use cards to improve your results.

RD PROGRAM COMPANION

	\$99	\$39 mo.	Incl. in package	4,000 yr.*
Standard	\$500	\$750	\$35 mo.	Incl. in package
Custom				
Quoted based on program size		Per-transaction, or flat monthly fee	Order Standard or fully custom designs	Unlimited with per-transaction pricing

GIFT & LOYALTY CARD PACKAGES

Jumpstart™

Package includes:

- 100 Standard Gift or Loyalty Cards
- Personalized with merchant name
- Additional cards may be ordered at any time

Merchandising Display

- 1-Pocket Acrylic Display
- 100 Gift or Loyalty Card Holders

Account Setup & Training

- Terminal programming & account coding
- Web access setup for program reporting
- Live phone training & Quick Reference Guide

LaunchBox™

Package includes:

- 500 Standard or Custom-Designed Cards
- Standard Cards personalized with merchant name
- Custom Cards designed specifically for merchant

Merchandising Display

- 2-Pocket Acrylic Display with signage
- 500 Gift or Loyalty Card Holders
- 2 Posters / 3 Table Tents / 5 buttons

Account Setup & Training

- Terminal programming & account coding
- Web access setup for program reporting
- Live phone training & complete training kit

JUMPSTART™ & LAUNCHBOX™ ADDITIONAL CARD ORDERS

Standard Card Orders	Merchant Price	Custom Card Orders*	Merchant Price
100 cards & holders	\$ 150	500 cards & standard holders	\$ 595
250 cards & holders	\$ 250	1,000 cards & standard holders	\$ 850
500 cards & holders	\$ 395	2,500 cards & standard holders	\$1,750
1,000 cards & holders	\$ 695	5,000 Custom card merchandising package	\$ 895
500 Standard card merchandising package	\$ 450	*All prepays & graphics costs are included in card pricing.	

Choosing a program

—Don Forsberg—
Three sizes fit all.

Jumpstart™

A low-cost startup package with a flat monthly processing fee, and flexible card ordering options make Jumpstart the ideal program for most merchants with from one to three locations.

Additional card orders may be Standard or Custom designs and automatically include a standard card holder for every card.

LaunchBox™

Small to mid-size merchants who are ready to launch their programs with 500 Standard or Custom cards, a complete merchandising package and the lowest possible flat monthly fee should choose LaunchBox. As with Jumpstart, there is no limit on the type of card programs that can be implemented. All card reorders include standard card holders.

Choice Program

For large single-location merchants, multiple-location retail chains and franchise companies, the Choice Program is often the best solution. Merchants have complete flexibility to create custom combinations of cards, merchandising, and pricing. Transaction processing under this program is normally billed on a per transaction basis; however, the flat monthly fee is becoming a popular option for franchise companies and other organizations with individual store owners.

