



**Ninety-Ninth Legislature - Second Session - 2006**  
**Committee Statement**  
**LB 917**

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**Hearing Date:** January 31, 2006

**Committee On:** Banking, Commerce and Insurance

**Introducer(s):** (Redfield)

**Title:** Adopt the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - X Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

8	Yes	Senators Mines, Redfield, Flood, Jensen, Johnson, Langemeier, Louden, Pahls
	No	
	Present, not voting	
	Absent	

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**Proponents:**

Senator Pam Redfield  
Jeffrey Gaertig  
Robert J. Hallstrom  
Janis McKenzie  
Jaimee Napp  
Korby Gilbertson  
Larry Ruth

**Representing:**

Introducer  
Office of the Attorney General of NE  
NE Bankers Assn.  
NE Insurance Federation  
Self  
Property Casualty Insurers Assn. of America  
First Data Corp.

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 917 (Redfield) would enact six new sections to be known as the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006 to require notice to Nebraska residents in the event of a breach of the security of a computerized data system if the use of personal information for an unauthorized purpose has occurred or is likely to occur.

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Section 1 would enact a new section to provide for a named act: the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006.

Section 2 would enact a new section to provide for definitions:

- (1) Breach of the security of the system means unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of personal information maintained by an individual or a commercial entity;
- (2) Commercial entity;
- (3) Notice means (a) written notice; (b) telephonic notice; (c) electronic notice; (d) substitute notice, if the cost of the notice will exceed \$75,000, the affected class to be notified exceeds 100,000 Nebraska residents, or the individual or commercial entity to give notice does not have sufficient contact information. This substitute notice requires electronic mail notice, website posting of the notice, and notice to major statewide media outlets; or (e) substitute notice, if the individual or commercial entity to provide notice has ten employees or fewer and the cost of the notice will exceed \$10,000. This substitute notice requires electronic mail notice, notice by paid advertisement in a local newspaper, website posting of the notice, and notice to major media outlets in the area in which the individual or commercial entity is located;
- (4) Personal information means a Nebraska resident's name in combination with data elements that relate to the resident if either the name or the data elements are not encrypted or redacted. The data elements are a social security number, motor vehicle operator's license number or state identification card number, or account number or credit or debit card number, in combination with any security code, access code, or password.
- (5) Redacted.

Section 3 would enact a new section to provide that an individual or a commercial entity that owns or licenses computerized data that includes personal information shall, when it becomes aware of a breach of the security of the system, conduct an investigation, and if the investigation determines that use of information about a Nebraska resident for an unauthorized purpose has or is likely to occur, the individual or commercial entity shall give notice to the affected Nebraska resident. An individual or a commercial entity that maintains computerized data that includes personal information that the individual or commercial entity does not own or license shall give notice to and cooperate with the owner or licensee of the information of any breach of the security of the system if use of personal information about a Nebraska resident for an unauthorized purpose occurred or is likely to occur.

Section 4 would enact a new section to provide that an individual or a commercial entity that maintains its own notice procedures as part of an information security policy otherwise consistent with the timing requirements of section 3 of the bill is deemed to be in compliance with the notice requirements of section 3 of the bill. An individual or a commercial entity that is

regulated by state or federal law and that maintains procedures for a breach of the security of the system pursuant to the requirements of its regulator is deemed to be in compliance with section 3 of the bill.

Section 5 would enact a new section to provide for enforcement by the Attorney General.

Section 6 would enact a new section to provide that the act applies to the discovery of or notification pertaining to a breach of the security of a system on or after the effective date of the bill.

**Explanation of amendments, if any:**

The committee amendments (AM2072) would amend section 2 of the bill, definitions, as follows:

- to provide for a definition of a new term: “encrypted” (“converted by use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key”);
- to expand the definition of “personal information” to include a Nebraska resident’s name in combination with data elements in the form of (1) a unique electronic number or routing code, in combination with any security code, access code, or password or (2) unique biometric data such as a fingerprint, voice print, or retina or iris image, or other unique physical representation, if either the resident’s name or the data elements are not encrypted or redacted; and
- to provide for a definition of “redact” (meaning exclusively “to alter or truncate data such that no more than the last four digits of a social security number, motor vehicle operator’s license number, state identification card number, or account number is accessible as part of the personal information.”) This definition would replace the stricken definition of “redacted” which would be defined as including, but not limited to, such alteration or truncation.

The committee amendments would amend section 3 of the bill which would provide, in part, that an individual or a commercial entity that maintains computerized data that includes personal information that the individual or commercial entity does not own or license shall give notice to and cooperate with the owner or licensee of the information of any breach of the security of the system if use of personal information about a Nebraska resident for an unauthorized purpose occurred or is likely to occur. The committee amendments would provide that cooperation includes sharing with the owner or licensee information relevant to the breach, but “not including information proprietary to the individual or commercial entity.”

The committee amendments would insert a new section 5 of the bill which would provide that any waiver of the provisions of the act is contrary to public policy and is void and unenforceable.

The committee amendments would strike section 5 of the bill as introduced, relating to enforcement by the Attorney General, and would replace it with new section 6 of the bill which would provide that the Attorney General may issue subpoenas, and may seek and recover direct economic damages for each affected Nebraska resident injured by a violation of the act.

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**Senator Mick Mines, Chairperson**