

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1507

2007 HOUSE JUDICIARY

HB 1507

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1507

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/31/07

Recorder Job Number: 2349, 2350

Committee Clerk Signature

*Remose*

Minutes:

**Chairman DeKrey:** We will open the hearing on HB 1507.

**Rep. Jim Kasper:** I am a sponsor of this bill. This bill extends some definitions that are in current law regarding what is happening on the Internet with solicitations to steal personal, confidential information, SS#, bank account #, etc. Everyday I seem to receive anywhere from 2-5 emails that look like a bank email, credit card email or EBay email, asking me to verify that this is my account; that something happened to my account and they want all this information from me, which is my personal, confidential, financial information and they are getting so good that you almost can't tell if they are legitimate or not. As this committee well knows, identity theft, if not the leading type of theft in the US, one of the leading types of thefts and it is continuing. What this bill does is move further along the lines of Phishing and Pharming situation and puts some penalties in law for companies who are doing this. I fully support the bill.

**Chairman DeKrey:** Thank you.

**Rep. Blair Thoreson:** I am a sponsor of this bill (see attached testimony). This bill deals with a couple of things that we like to do here in ND, phishing and pharming and we certainly don't like to do it in these ways. These are practices which are going on, which bad actors have

come forward with to try and steal your personal identification information and your financial information; things that we like to keep to ourselves and not have out there on the world wide web or in the hands of those who wish to use it to do harm. This language was originally from some model legislation which I received and which I reworked to try and make it fit a little closer with what we have here in ND Century Code. It puts into Code the Class C felony for anyone who would go ahead and do these types of acts within our state. I handed out definitions of phishing and pharming. Pharming is a little further, it tricks users into visiting websites that they think are legitimate and then it takes you in a different direction. The people taking you to these sites aren't legitimate. I would ask for your favorable recommendation on this bill.

**Rep. Klemin:** I would ask about an interesting variation on this theme that has happened to me and I was wondering if it is covered in here or not. Where somebody uses my email address as the origination address to send spam to people and the only way that I found out about it was when the addresses were rejected and it comes back to me, because of some internal spam control, etc. I had no idea what had happened, but someone had used my address and I had over 700 rejected emails, they came back to me because it was my email address that was being used. How do they do that. Is that covered?

**Rep. Blair Thoreson:** I've had a similar thing happen to me. Just looking quickly at the bill, I would have to look further and see. I know it talks about web pages that falsely represent the actor, which I think might have to have a language change to include emails. That may be a very good point that the committee might wish to address if you were going to amend the bill. I had a similar thing happen where your email address is taken over by somebody and the next thing you know you are sending out messages to people you know and they are wondering why am I getting this from him. Then you have to clean up that mess in your inbox.

**Rep. Klemin:** The rejections came from all over the world. You can put in an address for somebody with hundreds or thousands of different people included.

**Rep. Dahl:** Do you know what the federal government is doing in regard to this issue. It seems to me that they would have jurisdiction over this matter.

**Rep. Blair Thoreson:** I know the Feds have passed legislation going back to the mid-90s dealing with this. The situation they talked about even actors outside of the US doing this, and the people in the industry, AOL, etc. felt that it was important that each state put something in place because the federal law is there, but they're working on increasing penalties there, but I'm not certain that they are quite this strong. They're looking at it, if it's in your state borders, to make sure that you can take care of it at that level.

**Rep. Delmore:** I like the bill a great deal. I see the problem as enforcement, this can cross state lines as well as international boundaries. What do you envision as far as someone truly going after these people and doing something about it. That is one of the problems of the Internet.

**Rep. Blair Thoreson:** You are absolutely correct. What's happening is with certain jurisdictions passing laws dealing with this, these people are a moving target. They will look for places in the US or throughout the world where they don't have penalties in place, such as what this would do, and they will flood into an area. The person I spoke with, said that there had been cases where they traced to ND. I asked specifically, were there any cases and I don't know if anyone was prosecuted in the case, but through technology, they can trace back where the original message was sent from. It could be that the person wasn't physically located here, but somehow accessed the server on a computer in the state, that they feel that unless the jurisdiction has something in place, you will get somebody from somewhere, seeing your state and saying that here is a place where there aren't any penalties, and moving here. I

understand that we probably have some things to deal with this in ND, but I would like to see it strengthen, so if anyone is looking around at where they can go to, to do these types of things they will pass on our state.

**Rep. Delmore:** You've talked to some of the internet providers and those people are on board as well.

**Rep. Blair Thoreson:** Yes they are. As I explained, this will model legislation which had been worked on, but we did not take the exact language from that. I tried to take some of the best parts of that. For example, we did not have anything dealing with the identifying information and that's where you see on page 1, starting on line 22, that language does come from the model act. Some of the other things, the web page, we came up with on our own.

The people who I spoke with in the past on this, do feel that it is important. They were from some of the major corporations which I mentioned previously.

**Rep. Koppelman:** So this is not so much the act of phishing or pharming, it's the website, not the email that goes out to solicit so much and deals with the issue of operating this fraudulent website, that's really what you are dealing with.

**Rep. Blair Thoreson:** That's correct. The emails are going to come from all over. I would just hope that we can do something in our state where somebody here does not use that vehicle to take people's personal information or financial information, etc.

**Rep. Koppelman:** I've had these emails come from banks, I've actually forwarded many of those to our AG's office, to Mr. Grossman, and asked if this was consumer fraud, is there anything you can do about it. The typical response has been thanks for keeping us informed, we want to know what is going on; but this is so prevalent that we really don't go after them.

Would that change, do you think, if the site was located in ND, the site was fraudulent.

**Rep. Blair Thoreson:** I had not yet visited with the AG's office on this. I had general conversations with people in the office and they would support a stronger penalty. I think if we put in place this legislation, and if we know that something is going on within our state's borders, knowing how aggressive the office of the AG, the prosecutors in the local jurisdictions would go after them.

**Rep. Meyer:** Under Section 2, bottom of page 2, will this directly affect eBay fraud. Someone puts a product on eBay that is a fraud, it's not what it seems to be; diamonds come to mind and they send you zirconia. Under this law if we pass it, could you go after eBay or the person that contracted with eBay? Does that come under this bill at all?

**Rep. Blair Thoreson:** I had not thought of that when crafting this bill, but I think you may have some recourse there. I'm not certain about the providers themselves if you could go after eBay, but maybe the person who is making the misrepresentation. That was not my intent when I was putting this together. I see where that may have some merit.

**Chairman DeKrey:** Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. We will take up the bill.

**Rep. Klemin:** The thing that comes to mind as was mentioned, I don't know how somebody can send out something from an email address that isn't their address. That's an unauthorized use of someone else's email address. It seems to me that it is kind of the same problem. I'm not sure where that would fit.

**Rep. Meyer:** Under that scenario, how would that follow, like a lot of this happens when emails get forwarded.

**Rep. Klemin:** Well this is not forwarding anything. They are using my email address to send out something, I don't even get to see what it is that they sent; all I see is the rejection that comes back from all these sources.

**Rep. Meyer:** If they used it from forwarding it, is that an illegal use. I think they are getting the email addresses from the forwarded mail, and then they use your address to do whatever they are doing.

**Rep. Klemin:** I don't know. I think if I sent an email to somebody, I don't know if I have a reasonable expectation that they can't forward it to somebody else.

**Rep. Koppelman:** I would like to see an amendment that would address Rep. Klemin's concern and also one that would address what Rep. Meyer brought forward. I had circumstances a few years ago, where I was actually on eBay, I was considering bidding on an item, a camera, and there is an email address where you can ask a question of the seller through the system, you don't have their direct email address. I asked a question about the product and I got a response back saying they didn't know what product I was talking about. I emailed back and gave them the number and they said that was the user name on eBay but this isn't mine, somebody is using my account. I told them to report it to their local authorities and I'll report it to our Consumer Fraud Division in the AG's office. I don't know if this language in the bill would specifically cover either of those circumstances, so I would like to see an amendment.

**Rep. Delmore:** I think we can add of the things we want onto this bill, but the bottom line is it is just not enforceable. Maybe it will cause people to tread lightly and not hit on ND so much; the bottom line there isn't anyone to enforce it and track down those individuals and do something.

**Rep. Klemin:** A lot of these people could be in Uzbekistan, etc.

**Rep. Delmore:** Exactly, we're not just talking about somebody from Minneapolis. We're talking internationally.

**Rep. Koppelman:** Where is the person who hijacked this person's identity? I think what it would do, if somebody was engaging in this behavior in ND, then we could pursue it.

**Chairman DeKrey:** We will take this up later.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1507

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/6/07

Recorder Job Number: 2958

Committee Clerk Signature *W. Rose*

Minutes:

**Chairman DeKrey:** We will take a look at HB 1507.

**Rep. Koppelman:** Explained amendment 70561.0101. I move the amendments.

**Rep. Griffin:** Second.

**Chairman DeKrey:** We will take a voice vote. Motion carried. We now have the bill before us as amended. What are the committee's wishes.

**Rep. Delmore:** I move a Do Pass as amended.

**Rep. Koppelman:** Second.

**12 YES 0 NO 2 ABSENT DO PASS AS AMENDED CARRIER: Rep. Koppelman**

**House Amendments to HB 1507 (70561.0101) - Judiciary Committee 02/06/2007**

Page 1, line 1, after "chapter" insert "44-04 and a new section to chapter"

Page 1, line 2, after the first "to" insert "exempting electronic mail addresses and telephone numbers from open records requirements and to"

Page 1, after line 4, insert:

**"SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

**Electronic mail addresses and telephone numbers exempt.** The electronic mail address or telephone number of an individual which is provided to a public entity for the purpose of or in the course of communicating with that public entity is an exempt record."

Renumber accordingly

Date: 2/6/07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Rep. Delmore Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging			Rep. Onstad		
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 0

Absent 0

Floor Assignment Rep. Koppelman

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

**REPORT OF STANDING COMMITTEE**

**HB 1507: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1507 was placed on the Sixth order on the calendar.

Page 1, line 1, after "chapter" insert "44-04 and a new section to chapter"

Page 1, line 2, after the first "to" insert "exempting electronic mail addresses and telephone numbers from open records requirements and to"

Page 1, after line 4, insert:

**"SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

**Electronic mail addresses and telephone numbers exempt.** The electronic mail address or telephone number of an individual which is provided to a public entity for the purpose of or in the course of communicating with that public entity is an exempt record."

Renumber accordingly

2007 SENATE JUDICIARY

HB 1507

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1507

### Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: March 6, 2007

Recorder Job Number: 4430

Committee Clerk Signature *Maria L. Solway*

**Minutes:** Relating to electronic mail addresses and phone numbers exempt from open records; penalty.

**Senator David Nething**, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following hearing:

#### Testimony in Favor of the Bill:

**Rep. Blair Thoreson**, Dist. #44 Introduced the bill speak of Phishing and Pharming – Att. #1 he reviewed the house amendment stating that Sec. 1 is not original to the bill but does help strengthen the la.

**Sen. Nething** asked how section 1 relates to the bill? The representative stated the language came from **Rep. Koppelman** from a failed bill as an attachment. They reviewed the amendment (meter 5:00) and gave an examples, stating the information itself is not confidential only the email address would be. **Sen. Nething** stated that he writes back with the “reply” function. He asked **Rep. Thoreson** if he took it out would he have a problem. No **Sen. Nething** referred to the voter files and other types of correspondence.

**Sen. Fiebiger** concerned with the strong penalty asked, how big of a problem is this in ND.

**Rep. Thoreson** replied that he has not asked the States Attorney but referred to a conference he attended in 2006 and a trend coming from the Soviet Block; speaking of the process it takes.

**Sen. Nething** asked why a class C felony, why not B or A? **Rep. Thoreson** replied that this is what Legislative Council recommended; 5 years \$5000.

**Sen. Nelson** spoke of (meter 9:40) and example of pharming, "web" page, that looked legitimate.

**Testimony Against the bill:**

**Jack McDonald**, Behalf of ND Newspaper Assoc, and ND Broadcasters Assoc.- Att. #2 stating also that a response would become exempt and we would not know who was sending what and how this would exempt all parts of the government. This is in violation of "open government" and referred to an amendment at the bottom of Att. #2.

**Testimony Neutral to the bill:**

None

**Senator David Nething**, Chairman closed the hearing.

**Sen. Nething** spoke to an example of a Bismarck City Commissioners' meeting and if a complaint was filed they would all become "anonymous" complaints. I do not think this is what the intent of the person presenting the bill to be.

**Senator David Nething**, Chairman closed the hearing.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1507

### Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: March 12, 2007

Recorder Job Number: 4893

Committee Clerk Signature

*Moina L. Solberg*

**Minutes:** Relating to electronic mail addresses and phone numbers exempt from open records; penalty.

**Senator David Nething**, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

**Sen. Nething** referred to the amendments presented by **Jack McDonald** was oppose to; electronic mail line 9-11. His amendment – Att. #2, dated 3/6, would remove this and would bring the bill back to what the original bill was before the amendments in the house were made.

**Sen. Lyson** made the motion to Do Pass Amendment – Att. #1 from 3/6 and **Sen. Fiebiger** seconded the motion. All members were in favor and the motion passes.

**Sen. Fiebiger** questioned the penalty. **Rep. Thorson** had stated that it was recommended by Legislative council. The intent is to keep the trouble out of the state. **Sen. Nething** stated that

if it is out of line it will become a study the next session. They spoke of once your credit is wrecked, how long it takes to "dig" out your reputation.

**Sen. Lyson** made the motion to Do Pass HB 1507 as amended and **Sen. Nelson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Olafson**

**Senator David Nething**, Chairman closed the hearing.





**REPORT OF STANDING COMMITTEE**

**HB 1507, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1507 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "a new section to chapter 44-04 and"

Page 1, line 2, remove "exempting electronic mail"

Page 1, line 3, remove "addresses and telephone numbers from open records requirements and to"

Page 1, remove lines 7 through 11

Renumber accordingly

2007 HOUSE JUDICIARY

CONFERENCE COMMITTEE

HB 1507

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1507

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/28/07

Recorder Job Number: 5596

Committee Clerk Signature

*R. Penrose*

Minutes:

**Rep. Koppelman:** Called the conference committee to order. Clerk called attendance, all present. We are here to confer about HB 1507 and the Senate amended a portion of the bill out.

**Sen. Olafson:** The concern was that by leaving that in, that made it possible for completely anonymous communication by and between public officials and public entities that are communications of the officials. That is the concern with the bill.

**Rep. Koppelman:** I think one of the things, and we may have an idea in mind about how to solve that, but before we get to that, one of the things that we just wanted to point out from the house perspective is that the reason that we added the amendment is that we felt it was germane to the bill dealing with phishing and pharming because if you are a telemarketer or somebody who is bent on illegal activity, like internet fraud and that sort of thing, a really good way to get a great list of email addresses, for example, is to call the State, because those are all public records. Let's say you called the Dept. of Human Services and say I want every email address that you've received an email from in the last year. You may have to pay a fee, but nevertheless it is probably the cheapest list you can buy. So the concern was, because of our wide open meetings and open records laws, which I think all of us support in principal, it

could create some unintended consequences. The secondary issue was dealing with people that have private numbers or addresses. For example, you might have a cell phone number you don't want everybody in the world to have; you might have an unlisted phone number. I was visiting with the AG about this, and asked him what would happen if somebody were to call you, and he gave an example, if somebody calls with an unlisted phone number and they leave me a message, all of a sudden that's a public record, when he says call me back, here's my number. Now their unlisted phone number is an official ND public record. So it is really two concerns. It's one to say should the public be able to protect the things, the contact information, not the identity of the person. That is what we were trying to get at. I understand the concerns that were raised about that. But the idea really was, should that email address be public. We were not attempting to do that. I appreciate the concerns that were raised. We were not attempting to say, if Stan Lyson calls Wayne Stenehjem at his office, it should be public that Stan Lyson called, but rather that Stan Lyson's unlisted phone number shouldn't be public.

**Rep. Charging:** And you found a way to do that.

**Rep. Griffin:** We have an amendment that we worked on that would help alleviate some of the concerns where it would still be disclosure, it would just help to clarify that the name would be disclosed and be an open record, but the phone number of email address wouldn't be.

**Rep. Koppelman:** Did you want to make that in the form of a motion, Rep. Griffin.

**Rep. Charging:** Can we read it first.

**Rep. Koppelman:** It might be a little confusing with the Senate amendment version of the bill. I think this would require a motion that the Senate recede from its amendment and that the Conference committee further amend.

**Rep. Griffin:** It would be the House engrossed version, .0200.

**Rep. Koppelman:** For some of you that are new to this process, in conference committees several things can happen. The committee can vote in several ways.

**Sen. Lyson:** Let's look at how it fits into the bill.

**Rep. Koppelman:** If you look at version .0200, first engrossment of the House bill. It would be the same language as we have in that version, on lines 9-11 and then adding this language. It would reinsert the language the House had, but it would clarify that nothing in that language shields someone's identity because that was not the intent of the House Judiciary committee. The point was raised, and it was a good point, and hopefully the amendment will alleviate that concern. The result would be that email addresses and phone numbers would still be exempt records, but that the identity would be clear. So if you call the state office, Governor's office, or emailed the Governor's office, that email would be a public record, the fact that you sent it would be a public record, but your private email address could remain exempt.

**Rep. Charging:** The contents...

**Rep. Koppelman:** The contents would still be public the way it is now.

**Sen. Olafson:** The phone number or email address would be redacted and taken out.

**Rep. Koppelman:** Yes, correct. The difference between exempt and confidential is probably instructive here too. That is, a confidential record is just that, confidential. Exempt records could be released if the agency chose to do so. So if a request came in from a member of the public or member of the media, saying I really want so and so's email address, it would be up to that agency if there was a good reason to give it out, they could. They would have the authority to do that.

**Sen. Lyson:** I'm not sure I am opposed to the amendments, but the "may" vs. "shall" not release.

**Rep. Koppelman:** I would defer to Mary Kay Kelsch, from the AG's office is here, she actually drafted that language and I would defer to her expertise. I believe that may not is the same as shall not in legal language.

**Sen. Fiebiger:** My understanding is that shall is mandatory and may is not mandatory.

**Rep. Koppelman:** A may or a shall is, but if you say somebody may not do something, you're saying that they shall not.

**Rep. Charging:** Not is the word that makes it or not.

**Rep. Koppelman:** It means the same thing, correct. I realize that may or shall mean very difference things if those words are alone, but with a "not" there isn't a difference.

**Mary Kay Kelsch, AG's office:** Not is the word, may not or shall not are the same. They close the door to giving that information out.

**Rep. Koppelman:** If the committee adopts this amendment, we will leave this to Legislative Council's drafting style, they know what we mean and they would put this in the right form and style.

**Sen. Olafson:** So this wasn't prepared by Legislative Council.

**Rep. Koppelman:** This was prepared by the AG's office, Mary Kay Kelsch.

**Sen. Lyson:** So the next step would be to make a motion, can you have a motion without the numbers on here to coincide with the bill.

**Rep. Koppelman:** We could if the motion is made, and since we have the language, if the committee takes action, since the language is before us, we would have Legislative Council put it in proper number, style and form before it comes to the Floor.

**Sen. Fiebiger:** I was just wondering if the language that was similar to this, if you put in state-level public entity in your amendment.

**Rep. Koppelman:** I think it would be. I had heard something about that just in the last several hours here as well. The only thing I can tell you about that is that I know the request initially for this kind of attention from the legislature, did come from local governments, it would not be addressing that concern. It certainly would be narrower if we corrected that. That is something for the committee to decide.

**Sen. Olafson:** The amendment you are proposing as I understand it, would provide broader coverage for a public entity than just at the state level.

**Rep. Koppelman:** The open records and open meetings law covers all elected bodies, all elected officials in ND, so whether you are a township officer or the Governor, it affects you.

**Sen. Lyson:** So if we leave it as it is, it still affects the public entity as it does now.

**Rep. Koppelman:** Yes. If the committee's wishes are to adopt this proposal, the appropriate motion would be that the Senate recede from its amendment and that the conference committee adopt amendments.

**Sen. Lyson:** I move the amendment. The Senate recedes from their amendment and adopt amendment.

**Rep. Charging:** Second.

**Rep. Koppelman:** Roll call vote.

**6 YES 0 NO 0 ABSENT            PASSED**

**Rep. Koppelman:** Was there anyone here that wanted to comment on this, it isn't an open hearing. We should have asked earlier.

**Jack McDonald:** The only reason that we asked for the state level issue was that when you have these open records, it affects every single level of government. The tendency on the state level is that they know the state law very well, and they usually follow the state law. When you get down to the local level, we already have a great deal of resistance in open

meetings and open records anyway. People are always refusing records from townships, school districts, and tell you that they can't give you that record, unless we talk to the superintendent, etc. You're just giving one more reason to refuse records on the local level. The problem that is going to arise, you're not going to go to the Harrison township board, the telemarketers aren't going to Harrison Township board and looking for email addresses. The problem is going to arise at the state level, such as Dept of Transportation or Human Services, something like that. The problem is not going to arise at the local level, which is why I asked that this be restricted to state-level, to make it a little bit narrower. When we usually deal with these open records, you try to make the exceptions as narrow as you can. This one was made as broad as we possibly can. That just leaves it open for further problems and abuses. If somebody says we can't give you this because it has their email address on it, well then you have to go through the whole process of crossing out the email address, and you are told that they don't have the permission to do that, I have to check with the superintendent and he won't be in town until next week. We would like it to just be considered at the state level. This is kind of an unusual exemption in the first place.

**Rep. Koppelman:** Thank you. I know that Mr. McDonald and his organization do a good job of letting the media know what the law is, so I'm sure that they can send out information; but I do understand the point. Any other discussion by the committee. Hearing none, we have a motion for adjournment on the floor. We stand adjourned. The committee is dissolved.

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1507 (, as (re)engrossed):

Date: 3/28/07

Your Conference Committee House Judiciary

**For the Senate:**

**For the House:**

	YES / NO			YES / NO	
<u>Sen. Lyson</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Rep. Koppelman</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Sen. Olafson</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Rep. Charging</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Sen. Friebiger</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Rep. Griffin</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

recommends that the (SENATE) (HOUSE) (ACCEDE to) (~~RECEDE~~ from)

the (Senate) (House) amendments on (S/HJ) page(s) 1048 -- 1049

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

, adopt (further) amendments as follows, and place 1507 on the Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1507 was placed on the Seventh order of business on the calendar.

DATE: 3/28/07

CARRIER: Koppelman

LC NO. <u>70561.0202</u> of amendment
LC NO. _____ of engrossment
Emergency clause added or deleted
Statement of purpose of amendment

MOTION MADE BY: Sen. Lyson

SECONDED BY: Rep. Charging

VOTE COUNT 6 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**HB 1507, as engrossed:** Your conference committee (Sens. Lyson, Olafson, Fiebiger and Reps. Koppelman, Charging, Griffin) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1048-1049, adopt amendments as follows, and place HB 1507 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1048 and 1049 of the House Journal and page 809 of the Senate Journal and that Engrossed House Bill No. 1507 be amended as follows:

Page 1, line 11, after the underscored period insert "This section may not be used to shield the identity of the individual communicating with the public entity."

Renumber accordingly

Engrossed HB 1507 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1507

**Phishing** (sometimes called carding or brand spoofing) uses e-mail messages that purport to come from legitimate businesses that one might have dealings with -- banks such as Citibank; online organizations such as eBay and PayPal; Internet service providers such as AOL, MSN, Yahoo and EarthLink; online retailers such as Best Buy; and insurance agencies. The messages may look quite authentic, featuring corporate logos and formats similar to the ones used for legitimate messages. Typically, they ask for verification of certain information, such as account numbers and passwords, allegedly for auditing purposes. And because these e-mails look so official, up to 20% of unsuspecting recipients may respond to them, resulting in financial losses, identity theft and other fraudulent activity against them.

### The Phishing Lure

*Here's an example of how phishing works. On Nov. 17, 2003, many eBay Inc. customers received e-mail notifications that their accounts had been compromised and were being restricted. In the message was a hyperlink to what appeared to be an eBay Web page where they could re-register. The top of the page looked just like eBay's home page and incorporated all the eBay internal links. To re-register, the customers were told, they had to provide credit card data, ATM personal identification numbers, Social Security number, date of birth and their mother's maiden name. The problem was, eBay hadn't sent the original e-mail, and the Web page didn't belong to eBay -- it was a prime example of phishing.*

In September 2003, the Federal Trade Commission reported that 9.9 million U.S. residents have been victims of identify theft during the past year, costing businesses and financial institutions \$48 billion and consumers \$5 billion in out-of-pocket expenses.

In an online interview in July with The Washington Post, J. Howard Beales, director of the FTC's Bureau of Consumer Protection, said ID theft is the No. 1 complaint his organization receives, accounting for 43% of calls.

According to the Anti-Phishing Working Group, an industry organization started by Redwood City, Calif.-based Tumbleweed Communications Corp., most major banks in the U.S., the U.K. and Australia have been misrepresented to customers during phishing attacks.

### **Pharming**

"Pharmers" are producing more insidious techniques for tricking users into visiting potentially dangerous websites. Pharming works by attacking a DNS server (using something called DNS Poisoning) with the purpose of rerouting your web requests to a bogus or fraudulent web site. To prevent this type of attack, some financial institutions are already experimenting with multi-factor authentication which usually includes validating the authenticity of an identity using several validation mechanisms.

#### Sources:

<http://www.computerworld.com/securitytopics/security/story/0,10801,89096,00.html>

<http://www.computerworld.com/blogs/node/194>

AH # 2  
3-6-07

Tuesday, March 06, 2007

SENATE JUDICIARY COMMITTEE  
HB 1507

SENATOR NETHING AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We recognize the concerns of the sponsors and do not oppose those. However, we strongly oppose the House amendment to this bill, which is now Section 1 of the Engrossed Bill, and respectfully ask that you delete this provision.

This addition makes possible completely anonymous communications by and between public officials and public entities, or anonymous communications to public officials. For example, if members of the Board of Higher Education wished to send emails to each other concerning a matter of board business, they would remain anonymous to the public under this provision. If the Bismarck City Commission wished to file an action or register a complaint with the Attorney General about the conduct of a city official, it would be anonymous.

There have been no problems that we are aware of in this regard. We believe this is yet another example of a solution looking for a problem, and in the process creating greater problems than it seeks to solve.

North Dakotans treasure their open government and we think better government results from this openness. They have voted time and again for openness whenever they get a chance, whether to put open meetings and open records in the Constitution, or to print minutes of their local school boards and city commissions.

We ask that you honor this commitment and delete Section 1. If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL 1507

On page 1, line 2, delete "exempting electronic mail"

On page 1, line 3, delete "addresses and telephone numbers from open records requirements and to"

On page 1, line 7, delete "A new section to chapter 44-04 of the North Dakota Century Code is"

On page 1, delete lines 8 through 11

On page 1, line 12, delete "**Section 2.**"

Renumber accordingly