

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1106

2001 HOUSE JUDICIARY

HB 1106

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1106

House Judiciary Committee

Conference Committee

Hearing Date 01-17-01

Tape Number	Side A	Side B	Meter #
Tape II	X		686 to 4183
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chr DeKrey opened the hearing on HB 1106. Relating to electronic records and electronic signatures.

Jay Buringrud: Assistant Director of the Legislative Council, Uniform State Laws (refer to page 286 Uniform Electronic Transactions Act found in the Report of the North Dakota Legislative Council) Urged a do pass on this bill.

Rep Kretschmar: How many states have adopted this bill?

Jay Buringrud: 23 states have adopted this.

Chr DeKrey: Anyone else wishing to testify in favor of this bill?

Marilyn Foss: general counsel for the North Dakota Bankers Association (see testimony attached)

Rep Onstad: What about the records that have to be notarized?

Ms Foss: There is a section in this bill that does address the requirements of this.

Mark Johnson: North Dakota Association of Counties. Under the definition of a government agency, on line 6 on page 2, Refers to the bill and then adds does it include political subdivisions.

Jay Buringrud: When this was proposed - it was reviewed and it was decided but it applies to all governments of the state and it would be best to limit it to state government . The reason in section 16 and 17, that is the only place that government is referred to.

Rep Grande: Section 10 refers to notarization, how do you do this?

Jay Buringrud: I'm not involved, so I don't know how this would apply. A notary would validate.

Rep Grande: How would the notary recognize this and ok it?

Jay Buringrud: Yes, not necessary to have a signature to notarize it can be something else.

Mark Johnson: In section 16 thru the remaining portions of the bill, I would like to have a little more time and discussion so that it may include political subdivisions.

Claus Lembke: North Dakota Association of Realtors: testified in favor of this bill and gave reasons and examples of how this would help his organization.

Howard Anderson: on the executive board of the State Board of Pharmacy - testified in favor of the bill and gave testimony on how his organization is already doing this.

Rep Mahoney: Can a doctor call in a prescription.

Howard Anderson: If it is a controlled substance it has to have an original signature.

John Mielke: executive Secretary for the Public Service Commission (see attached testimony)

Rep Klemin: Has the PSC had any discussions about these concerns?

Mr Mielke: No.

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Mike Ressler: Director of Operations at TTD, We will be happy to work with Mark Johnson. The way it works today, county government does not have to follow the records management program that is in place today, only state agencies. That is why we did not include county governments.

Bill Roach: Information Analyst TTD, (see attached testimony). Also see attached testimony from Don Litchfield of the Greater North Dakota Association.

Chr DeKrey: Any further testimony on HB 1106, if not we will close the hearing on HB 1106.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1106A

House Judiciary Committee

Conference Committee

Hearing Date 01-24-01

Tape Number	Side A	Side B	Meter #
TAPE III	X		55 to 800
Committee Clerk Signature <i>Joan Diuro</i>			

Minutes: Chairman DeKrey opened the committee meeting on HB 1106. Relating to electronic records and electronic signatures. The committee discussed points of the bill, especially those items that deal with a notary. The committee discussed the amendments. Chairman DeKrey called for a voice vote. The amendments were moved by Rep Delmore and seconded by Rep Onstad. The amendments passed on a voice vote.

Rep Disrud moved for a DO PASS as amended and seconded by Rep Delmore.

Chairman DeKrey: The clerk will call the roll on a DO PASS as amended on HB 1106. The motion passes with 11 YES, 1 NO AND 3 ABSENT. Floor assignment - Rep Disrud.

10031.0201
Title.0300

Adopted by the Judiciary Committee
January 24, 2001

VR
1/24/01

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1106

Page 2, line 3, replace "an" with "a verifiable"

Renumber accordingly

Date: 01-24-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1106

House JUDICIARY Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken D. Pass as amended

Motion Made By Rep Disrud Seconded By Rep Delmore

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield	✓				
Rep Bette Grande		✓			
Rep G. Jane Gunter					
Rep Joyce Kingsbury					
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos					
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 11 No 1

Absent 3

Floor Assignment Rep Disrud

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

REPORT OF STANDING COMMITTEE (410)
January 25, 2001 9:13 a.m.

Module No: HR-13-1584
Carrier: Dlarud
Insert LC: 10031.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1106: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). HB 1106 was placed on the Sixth order on the calendar.

Page 2, line 3, replace "an" with "a verifiable"

Renumber accordingly

2001 SENATE JUDICIARY

HB 1106

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1106

Senate Judiciary Committee

Conference Committee

Hearing Date March 12th, 2001

Tape Number	Side A	Side B	Meter #
1		x	3.1-end
Committee Clerk Signature			

Minutes: **Senator Traynor**, opened the hearing on HB 1106.

Jay Buringurd, (testimony attached) from Legislative Council, didn't expect to be here this early. Is here in support of the bill. Act applies only where both parties agree to conduct transaction by electronic means. Electronic signatures are valid as written signatures. Electronic transactions are mostly faceless transactions. If the legislature starts to amend this act. First 15 sections deals with electronic transactions. Last part deals with authority of the state. I have a set of amendments to undo the house amendments. Addressees concern by state agencies.

Senator Traynor, is Professor Fry comfortable with the amendments?

Jay Buringurd, yes.

Senator Trenbeath, does this preserve the transactions between two parties?

Jay Buringurd, it cold be more than 2.

Senator Trenbeath, 2nd question, preserving agreement with section 4?

Jay Buringurd, yes.

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Senator Trenbeath, question. On page 5, on number 9. Could you explain this to me in fewer words than it is communicating?

Jay Buringurd, I don't know. I would have to guess.

Senator Trenbeath, Whoever takes information in working with an interpretation of that written record. Isn't that a problem?

Jay Buringurd, I don't see that as a problem if you have a competent software system.

Discussion between Senator Trenbeath and Jay Buringurd.

Senator Traynor, calling attention to section 6, line 13- If you have a document that seeks recording that uses electronic signatures, isn't an electronic acknowledgment entitled to record?

Jay Buringurd, I don't understand.

Senator Traynor, this says that the electronic signatures satisfies the law. If it all comes electronically does this mean the deed is entitled to records though it wasn't original signatures?

Jay Buringurd, I would believe so.

Senator Watne, have you looked at HB 1252- Does this require additional signatures?

Jay Buringurd, I don't believe so.

Senator Traynor, any states that declined?

Jay Buringurd, none that I'm aware of.

Senator Traynor, are there federal precepts if you don't adopt this?

Jay Buringurd, yes.

Senator Nelson, the Secretary of State says you need paper ones.

Illone Jeffcoat, (Testimony attached) suggests amendments which address a concern with section 16 and 17.

Senator Traynor, I don't see the State Record Administrator defined.

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Senator Watne, question on section 8. Agencies now adopt rules?

Jay Burlingurd, you have rule making authority. We changed the definition in 78, 79 or 81. I'm not sure on that.

Senator Nelson, so this is no longer off limits to us?

Jay Burlingurd, the Legislature starting 97 has changed this by standardizing this. The department shall provide guidelines.

Senator Traynor, have you seen the Public Service Commission Amendment? You and the Public Service Commission need to get together on the amendments.

Todd Kranda, lobbyist for Verizon, opposed to suggested amendments. The proposed amendments address concerns with section 16 and 17 of this bill.

Senator Traynor, confer with Jay about your amendments.

Senator Bercler, regarding confidentiality of the transaction, there's no way to cross over?

Todd Kranda, technology is improving, there is still that concern. This bill does not address that.

Senator Nelson, would your competitors also have these same views?

Todd Kranda, I would assume that this applies to all.

Marilyn Foss, ND Bankers Association, appears in support of a do pass. (testimony attached)

End of side b tape 1

Senator Watne, you address mistakes that apply, does that pertain to section 9.

Marilyn Foss, in the real world, courts would decide.

Senator Traynor, would land documents be covered under this?

Marilyn Foss, I don't think so.

Senator Trenbeath, the register of deeds is a party to that transaction and can say yea or nay?

Marilyn Foss, the actual parties are the seller and the buyer. Doesn't mean that a document can't be forged.

Al Jaeger, Secretary of State. When the electronic signature became effective. I have heard about this for at least 6 years. Between the 95-97 session my office created a committee to look at electronic signatures and transactions. Questions on notaries pact designed so it would not impact electronic transactions. Section 10 of the bill is what we were concerned about. We decided after the attorney conference to leave this alone. Some states have special transactions for notaries. Back on what professor Fry said, I would recommend that the bill be amended back to what it was. It would be best to back to that language.

Senator Traynor, you said 1252 leaves the signature matter open.

Al Jaeger, yes, that is also covered in section 1. I am sure we will be involved in some other type of notary. We did not feel we were ready to get into that. Make sure the Federal Law does not override what we are doing.

Bill Roack of ITD research management testifies in support of HB 1106. Discussion.

Senator Trenbeath, what your saying is that there needs to be copies of checks?

Senator Bercier, how much of an issued would there be if this were implemented tomorrow?

Bill Roack, the technology is in place. Cost to businesses and citizens is our concern. Who will retain an outdated certificate. It will take time.

Senator Traynor, have you had time to discuss the public service commission amendments?

Jay Buringurd, no I have not.

Senator Traynor, what about the verizon amendments?

Jay Buringurd, no. I would be in opposition to the Verizon Amendments. We would be

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opposed to them. The uniform law is too vague. Whatever the other entities come up with would be OK, except for section 2 the house amendments.

Senator Traynor, closed the hearing on HB 1106.

SENATOR WATNE MOTIONED TO ADOPT AMENDMENT .0301 FROM JAY BURINGURD, SECONDED BY SENATOR BERCIER. VOTE INDICATED 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING. SENATOR NELSON MADE A SECOND MOTION TO FURTHER ADOPT PSC AMENDMENTS ON PAGE 11, SECONDED BY SENATOR TRENBEATH. VOTE INDICATED 6 YEAS, 1 NAY AND 0 ABSENT AND NOT VOTING. SENATOR NELSON MOTIONED TO DO PASS AS TWICE AMENDED, SECONDED BY SENATOR TRENBEATH. VOTE INDICATED 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING. SENATOR NELSON VOLUNTEERED TO CARRY THE BILL.

