

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 21, 2004

1:02 p.m.

MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Tom Anderson, Vice Chair
Representative Jim Holm
Representative Dan Ogg
Representative Ralph Samuels
Representative Les Gara
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 4

Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

- MOVED CSHJR 4(STA) OUT OF COMMITTEE

HOUSE BILL NO. 285

"An Act adopting the Uniform Electronic Transactions Act; repealing certain statutes relating to electronic records and electronic signatures; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

- MOVED CSHB 285(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 4

SHORT TITLE: CONST AM: 90 DAY LEGISLATIVE SESSION

REPRESENTATIVE(S): SAMUELS, ROKEBERG, Stoltze, Dahlstrom, Croft, Holm, Anderson, Meyer, McGuire, Kohring

01/21/03	(H)	PREFILE RELEASED (1/10/03)
01/21/03	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	(H)	STA, JUD, FIN
03/11/03	(H)	STA AT 8:00 AM CAPITOL 102
03/11/03	(H)	Scheduled But Not Heard

03/18/03 (H) STA AT 8:00 AM CAPITOL 102
03/18/03 (H) Heard & Held
03/18/03 (H) MINUTE(STA)
04/24/03 (H) STA AT 8:00 AM CAPITOL 102
04/24/03 (H) Scheduled But Not Heard
04/29/03 (H) STA AT 8:00 AM CAPITOL 102
04/29/03 (H) Heard & Held
04/29/03 (H) MINUTE(STA)
04/30/03 (H) JUD AT 1:00 PM CAPITOL 120
04/30/03 (H) <Bill Hearing Postponed to 05/02/03>
05/01/03 (H) STA AT 8:00 AM CAPITOL 102
05/01/03 (H) Moved CSHJR 4(STA) Out of Committee
05/01/03 (H) MINUTE(STA)
05/02/03 (H) JUD AT 1:00 PM CAPITOL 120
05/02/03 (H) Scheduled But Not Heard
05/05/03 (H) STA RPT CS(STA) NT 4DP 1DNP 2NR
05/05/03 (H) DP: HOLM, LYNN, DAHLSTROM, WEYHRAUCH;
05/05/03 (H) DNP: BERKOWITZ; NR: SEATON, GRUENBERG
05/05/03 (H) JUD AT 1:00 PM CAPITOL 120
05/05/03 (H) Scheduled But Not Heard
05/06/03 (H) JUD AT 5:30 PM CAPITOL 120
05/06/03 (H) -- Meeting Canceled --
05/07/03 (H) JUD AT 1:00 PM CAPITOL 120
05/07/03 (H) Scheduled But Not Heard
05/08/03 (H) JUD AT 3:30 PM CAPITOL 120
05/08/03 (H) Scheduled But Not Heard
05/09/03 (H) JUD AT 1:00 PM CAPITOL 120
05/09/03 (H) Scheduled But Not Heard
05/12/03 (H) JUD AT 1:00 PM CAPITOL 120
05/12/03 (H) Scheduled But Not Heard
05/13/03 (H) JUD AT 3:30 PM CAPITOL 120
05/13/03 (H) -- Meeting Canceled --
05/14/03 (H) JUD AT 1:00 PM CAPITOL 120
05/14/03 (H) Scheduled But Not Heard
05/15/03 (H) JUD AT 8:30 AM CAPITOL 120
05/15/03 (H) -- Meeting Canceled --
10/29/03 (H) JUD AT 5:00 PM Anch LIO Conf Rm
10/29/03 (H) Heard & Held
10/29/03 (H) MINUTE(JUD)
10/29/03 (H) MINUTE(JUD)
10/29/03 (H) MINUTE(JUD)
01/21/04 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 285

SHORT TITLE: ELECTRONIC TRANSACTIONS & SIGNATURES
REPRESENTATIVE(s): MCGUIRE

04/25/03	(H)	READ THE FIRST TIME - REFERRALS
04/25/03	(H)	L&C, JUD
05/07/03	(H)	L&C AT 3:15 PM CAPITOL 17
05/07/03	(H)	Scheduled But Not Heard
05/09/03	(H)	L&C AT 3:15 PM CAPITOL 17
05/09/03	(H)	Scheduled But Not Heard
05/12/03	(H)	L&C AT 3:15 PM CAPITOL 17
05/12/03	(H)	Moved Out of Committee
05/12/03	(H)	MINUTE(L&C)
05/13/03	(H)	L&C RPT 2DP 4NR
05/13/03	(H)	DP: LYNN, ANDERSON; NR: GATTO,
05/13/03	(H)	CRAWFORD, GUTTENBERG, DAHLSTROM
01/21/04	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

VANESSA TONDINI, Staff
to Representative Lesil McGuire
House Judiciary Standing Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information regarding Version D of
HB 285.

ARTHUR H. PETERSON, Commissioner
National Conference of Commissioners on Uniform State Laws
(NCCUSL)
Juneau, Alaska

POSITION STATEMENT: Assisted with the presentation of HB 285
and responded to questions.

DAVID JONES, Chief Assistant Attorney General - Statewide
Section Supervisor
Labor and State Affairs Section
Civil Division (Anchorage)
Department of Law (DOL)

POSITION STATEMENT: Assisted with the presentation of HB 285
and responded to questions.

VICKY BACKUS, State Recorder
State Recorder's Office
Division of Support Services
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB
285 and said her office is very much in support of the bill.

PAULA KELSEY, Recorder Manager
State Recorder's Office
Division of Support Services
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Provided a comment during discussion of HB 285.

SCOTT CLARK, Notary Clerk
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 285, relayed that the lieutenant governor supports the bill, provided comments, and responded to questions.

ACTION NARRATIVE

TAPE 04-1, SIDE A

Number 0001

CHAIR LESIL McGUIRE called the House Judiciary Standing Committee meeting to order at 1:02 p.m. Representatives McGuire, Anderson, Holm, Ogg, and Samuels were present at the call to order. Representatives Gara and Gruenberg arrived as the meeting was in progress.

HJR 4 - CONST AM: 90 DAY LEGISLATIVE SESSION

Number 0052

CHAIR McGUIRE announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 4, Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session. [Before the committee was CSHJR 4(STA).]

CHAIR McGUIRE noted that the committee took public testimony on HJR 4 during the interim, at a meeting held in Anchorage. After determining that no one else wished to provide testimony, she closed public testimony on HJR 4.

REPRESENTATIVE SAMUELS, speaking as the sponsor, remarked that whether one agrees or disagrees with the concept embodied in HJR 4, having debate on the issues it raises is healthy. He mentioned that he appreciates the committee's willingness to move HJR 4 out of committee so that the process can continue.

Number 0206

REPRESENTATIVE SAMUELS moved to report CSHJR 4(STA) out of committee with individual recommendations [and the accompanying fiscal notes]. There being no objection, CSHJR 4(STA) was reported from the House Judiciary Standing Committee.

HB 285 - ELECTRONIC TRANSACTIONS & SIGNATURES

Number 0267

CHAIR MCGUIRE announced that the final order of business would be HOUSE BILL NO. 285, "An Act adopting the Uniform Electronic Transactions Act; repealing certain statutes relating to electronic records and electronic signatures; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date." [In members packets was a proposed committee substitute (CS) for HB 285, Version 23-LS0829\D, Bannister, 10/6/03.]

CHAIR MCGUIRE noted that the Uniform Electronic Transaction Act (UETA) was created by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and has been in the works for many years. She mentioned that uniform Acts attempt to make state laws uniform, and that the UETA is a reflection of current times. Much more commerce and other interactions occur via electronic means nowadays, and the UETA is a uniform law intended to provide a framework for any forthcoming laws promulgated by states to govern the electronic-commerce era. The objective of the UETA is to establish the legal equivalence of electronic records and signatures with paper writings and manually-signed signatures, removing barriers to electronic commerce so that it can be conducted legally, more quickly, and in a way that all will understand.

CHAIR MCGUIRE added:

There's a very limited but important objective: that an electronic record of a transaction is the equivalent, in fact, of a paper record, and that an electronic signature will be given the same legal effect - whatever that may be - as a manual signature. ... [The] UETA is not an attempt to create a whole new system of legal rules for the electronic marketplace; it doesn't change any of the substantive rules of law that currently apply - i.e. contract law or agency law - but it's an effort at conforming electronic means to those already-positioned sets of laws. Many states - 45, in fact, to date - have already adopted [the]

UETA, so we're a little bit behind the power curve ... due to the legislature being very busy and focusing on other things. ... Alaska should join the rest of the nation in adopting [the] UETA as we enter the 21st century

CHAIR MCGUIRE, in response to a question, indicated a preference for adopting the proposed CS as a work draft before continuing the discussion.

Number 0594

VANESSA TONDINI, Staff to Representative Lesil McGuire, House Judiciary Standing Committee, Alaska State Legislature, explained that the only difference between the original bill and Version D is that Version D corrects a drafting oversight by inserting AS 45.02 - the Uniform Commercial Code (UCC) chapter pertaining to sales - within the proposed Sec. 09.80.010(b)(2), which is located on page 1, lines 13-14. By including AS 45.02 in the "Scope" section of the UETA, it ensures that UCC sales and lease transactions may be accomplished via electronic transactions.

Number 0649

REPRESENTATIVE GRUENBERG moved to adopt the proposed CS for HB 285, Version 23-LS0829\D, Bannister, 10/6/03, as the work draft. There being no objection, Version D was before the committee.

Number 0665

ARTHUR H. PETERSON, Commissioner, National Conference of Commissioners on Uniform State Laws (NCCUSL), assisted with the presentation of HB 285. He said that 45 states have enacted the UETA, which is a product of the [NCCUSL]. He provided the committee with written information about the NCCUSL, which is now in its 113th year, and the UETA, which was promulgated by the NCCUSL in 1999. He went on to say:

Every single product of the [NCCUSL] takes at least two years; it has to have two floor readings in separate years. Between the annual meetings of the [NCCUSL], drafting committees are working, and at those committee meetings, there will usually be the advice from various people in the field, whether it's the banking industry or the poverty law people or the technological people for electronic transactions. We

get advice across the board, and we have members on the committees from across the board. The [NCCUSL] is made up of attorneys in private practice and public practice; many, many legislators ...; many, many judges - both state and federal ...; and a good number of law professors.

So the product you have before you is the culmination of a great deal of research; extensive experience; and a lot of analysis, debate, drafting, and redrafting. [The] UETA is the first comprehensive state law for the electronic-commerce era. It establishes default rules ... [but] it is not a whole new body of law - it simply makes clear that the rules that apply to paper transactions and paper signatures and manual signatures apply in this electronics era. And it doesn't compel the use of electronic transactions, it simply provides that since people are now using them as a major, major means of conducting business, we have to deal with it in the law; we can't just let it drift. So, that's what this bill does.

Number 0864

MR. PETERSON

If the state doesn't adopt it, federal law will govern. There's the federal Electronic Signatures in Global and National Commerce Act, which is affectionately called "E-Sign," and there is a specific provision in that Act that says that ... Congress likes what the [NCCUSL] did in [the] UETA, and states, "you ought to enact that in its entirety, and if you don't, this federal law is going to apply." So already 45 states have enacted it; it's pending in Alaska, and I was told on the phone yesterday from the Chicago staff headquarters office that it is about to be introduced in two more states

... Proposed AS 09.80.040 is the heart of the bill, and that's on page 3 [lines 19-26]; four simple, little one-sentence provisions: a record or signature may not be denied legal effect or enforceability solely because it is in electronic form - and some corollaries to that provision. All of the other provisions in the Act develop those four basic rules that you see in that section.

MR. PETERSON offered to pass any of the committee's unanswered questions on to Patricia Brumfield Fry, the Chair of the UETA drafting committee, adding that the committee packets contain [articles] written by Ms. Fry explaining the UETA and the need for it. He reiterated that "the feds" want states to adopt the UETA in its entirety, or the result will be that electronic transactions will be governed by the federal law - E-Sign. He offered that he knows of no issues lurking in the UETA that might cause difficulties later.

REPRESENTATIVE GRUENBERG asked whether any courts have found problems with the UETA.

MR. PETERSON said he was not aware of any such, and offered to pass that question on to Ms. Fry. In response to further questions, he said that he is not sure why the states that have not adopted the UETA have not yet done so, but predicted that all those states would introduce a UETA bill this year and perhaps even enact it.

Number 1212

REPRESENTATIVE GRUENBERG referred to Ms. Fry's article titled "Federal Preemption and Electronic Commerce," and noted that it says that any state law enacted after E-Sign has been enacted must refer specifically to that federal legislation. He asked whether HB 285 does so.

MR. PETERSON said it does, adding that HB 285 satisfies the federal law.

CHAIR McGUIRE remarked that that is one of the benefits of states enacting uniform laws regarding certain topics; it enables states to maintain state law as opposed to becoming subject to federal law.

MR. PETERSON concurred.

REPRESENTATIVE GARA remarked that the NCCUSL often deals with complex issues and sometimes ends up picking a particular approach as its final product as opposed to any of the other approaches discussed during its deliberative process. He asked whether any other approaches were proffered during the NCCUSL's deliberations regarding the UETA.

MR. PETERSON said that although there was a lot of discussion, he did not recall that there were any hotly debated issues during the formation of the UETA, such as there were during the formation of the Uniform Computer Information Transactions Act (UCITA), which the NCCUSL's Alaska delegation voted against. To clarify, he said that the Alaska delegation of the NCCUSL voted in favor of the UETA. He offered to check with Ms. Fry regarding whether any alternative approaches were discussed during the formation of the UETA and, if so, what those were.

REPRESENTATIVE GARA relayed that his major concern is that personal coding could be stolen if it is not required that [that coding] be crafted carefully enough. He said he could not determine whether language in the bill stipulates how detailed personal coding must be. "How much can you assure us that we're not passing something that will result in the ability for people to commit fraud against people who sign up?" he asked.

Number 1444

MR. PETERSON relayed that he has a lot of faith, both in the people who developed the UETA and in the level of debate and discussion that occurred, that Representative Gara's concern has been addressed. He added:

That type of question is one that indeed was considered: the type of protections that would be in ... [the UETA]. Certainly the [NCCUSL] would not want to do anything that would [leave] people open to fraud or encourage them or induce them into a fraudulent situation. And the fact that Congress has also enacted - in E-Sign - the provision that says, "States, you ought to adopt [the] UETA," gives me some comfort. ... It's certainly a point that would have been considered, analyzed, and addressed by a number of very technologically sophisticated people.

MR. PETERSON offered to question Ms. Fry on that issue as well.

CHAIR MCGUIRE referred to page 5, line 2, and noted that proposed AS 09.80.070 speaks to the effect of a change or an error in the record itself. So although that language is not a complete answer to the question raised by Representative Gara, it does speak to the types of errors in transmission that could occur. In terms of identity theft, she noted, one of the advantages of the UETA is that it does not take the place of any current state laws pertaining to identity theft and fraud. She

referred to page 10, proposed AS 09.80.150, and noted that it speaks to acceptance and distribution of electronic records by a governmental agency. She then pointed out that [paragraph] (3), lines 25-27 on page 10, provides that governmental agencies [may] set out "control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records".

CHAIR McGUIRE surmised that the UETA is a little bit different than some other uniform laws - such as those dealing with policy matters - in that it does not involve highly contested issues which result in compromise legislation. The UETA merely sets up a framework that will allow electronic signatures to be legal; individual agencies and businesses that use electronic signatures will still be allowed to establish their own parameters regarding confidentiality. She echoed Representative Gara's request for more information regarding any controversies that arose during the formation of the UETA.

Number 1642

MR. PETERSON detailed some of the controversies involved in the formation of the UCITA, and assured the committee that no such controversies are inherent in the UETA.

REPRESENTATIVE GRUENBERG mentioned that the issue of whether or not faxed documents will be accepted by the courts raises practical problems for him as a practicing lawyer. He offered his belief that there doesn't appear to be any reason that faxed documents shouldn't be accepted by the courts. He asked whether HB 285 will require courts to accept faxed documents.

MR. PETERSON said that there is no such express provision in the bill, and suggested that other testifiers might be better able to address that issue.

REPRESENTATIVE GRUENBERG mentioned past committee discussions regarding electronic warrants.

REPRESENTATIVE OGG referred to proposed AS 09.80.150(a) on page 10 [lines 9-13], and noted that it says [in part]: "each government agency of this state shall determine whether, and the extent to which, the agency will send and accept electronic records and electronic signatures". He offered his belief that under that language, the court would have the option of accepting faxed documents.

REPRESENTATIVE ANDERSON asked Mr. Peterson if he knew why the states that have not yet adopted the UETA haven't done so.

MR. PETERSON reiterated that he did not know why the UETA has not yet been adopted in those states. He offered to ask Ms. Fry for more information on that issue.

Number 1809

DAVID JONES, Chief Assistant Attorney General - Statewide Section Supervisor, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law (DOL), emphasized that the UETA is simply a framework that gives legal effect to electronic signatures and records; it provides a means to go to court and obtain relief, if necessary, for transactions that were conducted electronically. It doesn't require anyone to accept electronic records or signatures, but provides a means of enforcement if both parties to a transaction have voluntarily conducted it electronically. The level of security, means of giving notice, and all details that guide the transaction are chosen by those parties.

MR. JONES agreed that the bill wouldn't directly address the concerns raised by Representative Gruenberg about faxing documents to court. Saying he shares the frustration about the courts' reluctance to accept faxed documents, which would be so much faster, Mr. Jones added that there seems to be no rational basis, now that fax machines work as well as they do, for not accepting [such documents]. He specified that this bill would give individual government agencies the discretion to decide whether to participate in electronic transactions and accept electronic records.

REPRESENTATIVE GRUENBERG observed that the courts have left this to each judicial district, at the very least, if not to each judge; sometimes it varies from case to case whether faxed documents will be accepted. This Act, national in scope, leaves it up to each state and each governmental agency within each state. Since [HB 285] would leave it up to each governmental agency, he said there won't be any uniformity, which as a "consumer" of the court system he finds frustrating. If the point has been reached with electronic commerce that these should be accepted unless there is a good reason not to, Representative Gruenberg suggested that an agency should accept such documents unless it shows good cause for opting out. He requested feedback on this idea.

MR. JONES replied that he shares the frustration of trying to determine whether a particular judge or court will accept faxed filings. However, that's not a concern this bill is designed to address, since governmental agencies are just one category of entities affected by it. Rather, the bill is designed to lay the legal foundation for electronic transactions so that those who choose to engage in such transactions will have a means of enforcement if something goes wrong. He suggested that Representative Gruenberg's specific concern would have to be dealt with separately.

REPRESENTATIVE GRUENBERG clarified that he wasn't saying the bill shouldn't be adopted, but was looking at one provision pointed out by Representative Ogg. Representative Gruenberg, too, pointed out that language on page 10, lines 9-13, provides that each governmental agency shall determine whether and the extent to which it will send and accept electronic records and so forth; he questioned the wisdom of that, but said he didn't know enough about it to offer an amendment. He reiterated his preference, at least for the agency he deals with, to require [acceptance of electronic transactions] unless there is a good reason to the contrary.

Number 2079

REPRESENTATIVE HOLM said he shares Representative Gruenberg's concern. He asked whether Mr. Jones was saying the legislation opens the door for any type of electronic signature and that if the legislature desires to restrict it as a matter of state policy, it would then require all state agencies - in another piece of legislation - to accept certain forms of electronic communication.

MR. JONES answered in the affirmative and said it's a difficult policy question to address. In further response, he specified that he believes it is good policy to let individual agencies choose. They have different operations, needs, and conditions under which they operate. He cited examples of different types of documents: permanent fund dividend (PFD) applications, warrants issued through the court system, court filings by the Department of Law, and timesheets and leave slips used by governmental agencies. Emphasizing the wide variety of operations conducted by state agencies, he said it's difficult to come up with a rule that applies to all of them concerning the use of electronic records and signatures.

CHAIR McGUIRE remarked to Representative Holm:

It may be that your ideas and Representative Gruenberg's are just before their time. It might be that ... we get [the] UETA into effect in the framework and governmental agencies can begin that process of considering how they would accept electronic information and the types of structure that would be in place, and that, at some point, there does need to be a policy push on the part of the legislature and so on. But I would suspect it would come with fiscal notes ... and that agencies would certainly want a little help from us ... to change over some of the equipment that they have in place. I don't know, but I think so.

Number 2197

REPRESENTATIVE HOLM explained that his concern related to documents in commerce, rather than in the legal sense. He said he'd like to rely upon a certain type of electronic communication for copies of checks, proof of purchase, or proof of receipt, for example, so that there was less concern about losing something or having to get it certified. "In this case, we could choose, as contractors between each other, to contract that we would accept or not accept different types of communication," he surmised, noting that there wouldn't be uniformity.

CHAIR McGUIRE agreed it sets up a framework, rather than micromanaging the details. She said that's one challenge when trying to put together a uniform law that affects so many states and entities.

MR. PETERSON explained that as a general policy, the NCCUSL tries not to get into the details of any particular state's administrative [workings]. This Act, as mentioned, tries to set up the framework and set out certain basic rules. He added:

While it, in effect, is requiring the courts to accept electronic evidence, that's essentially just stating a legal consequence of the fact that the people involved in this transaction have used electronic means. And so, it's simply establishing the rule that when you do so, that is to be accepted just as though you had the old, traditional paper means of the transaction.

CHAIR McGUIRE remarked that this isn't insignificant. There could be a voluntary transaction between two individuals who sit down and decide by what means to do it, and yet there would be no force of law.

REPRESENTATIVE GARA counseled against amendments to the bill on the subject raised by Representative Gruenberg. For example, courts may have determined that they don't have adequate staff to receive 5,000 pages of documents in a given timeframe. He suggested that that is the purpose of leaving it to the agencies to decide how, when, and under what circumstances this will be done.

REPRESENTATIVE ANDERSON, who chairs the House Labor and Commerce Standing Committee, noted that this bill had been heard in that committee, and opined that it's a good bill. Reporting that Representative Guttenberg and others had talked about making sure there is no potential for fraud, Representative Anderson offered his belief that the bill covers that. He recalled that when he was a legislative aide in the 19th legislature, then-Representative Terry Martin had sponsored a bill with regard to electronic transmittal of absentee ballots; thus he said there is a precedent that is illustrative of how this really works. He indicated that he too has felt frustration with the courts because they won't accept faxed documents.

TAPE 04-1, SIDE B

Number 2358

VICKY BACKUS, State Recorder, State Recorder's Office, Division of Support Services, Department of Natural Resources (DNR), remarked that her office sees HB 285 as just laying the groundwork for the acceptance of electronic transactions in the future. If HB 285 were to pass, she explained, her office would not jump right into doing electronic recordings; instead, they would wait and see what standards are developed on a national level. In order for the State Recorder's Office to accept electronic transactions from other states, it will require that there be a great deal of uniformity in the standards. In conclusion, she relayed that although her office is very much in favor of HB 285, even if it is approved they would not start doing electronic recordings right away.

Number 2303

PAULA KELSEY, Recorder Manager, State Recorder's Office, Division of Support Services, Department of Natural Resources

(DNR), noted simply that the "UCC Central File adopted Revised Article 9," which allows electronic admission of documents, and has experienced no problems to date.

Number 2275

SCOTT CLARK, Notary Clerk, Office of the Lieutenant Governor, relayed that the lieutenant governor wants to express his support of HB 285. He explained that the lieutenant governor has a role pertaining to certifying authorities, those who issue digital certificates for digital signatures. Currently, the electronic signature law is technology specific to a complex mechanism, which has proven to be unwieldy. He offered that HB 285 will simplify matters for the lieutenant governor's office. He too noted that the UETA provides a framework, adding that it will simplify the process and broaden the concept of a signature to include [those used by the Permanent Fund Dividend Division]. He predicted that many governmental agencies will be amenable to the changes brought about by the adoption of the UETA. He said that current law defines electronic signatures in a very specific technical manner that is [not compatible with how many entities conduct business].

MR. CLARK noted that Utah, which he described as a leader with regard to digital notarizations, has found that its current system is not very practical. So although there is nothing inherently wrong with the concept of digital signatures, he opined, the technology has not yet evolved to the point where its use will be easy. Backing away from current statute and moving in the direction allowed by the UETA, he concluded, will simplify the process because entities will be able to define for themselves what an electronic signature will be; they won't be limited to a specific technology.

REPRESENTATIVE GRUENBERG asked whether Section 2 is repealing the current technology statutes. He then remarked that Mr. Peterson is [nodding his head].

REPRESENTATIVE OGG asked whether adoption of HB 285 will effect absentee ballots.

MR. CLARK offered that he can only speak to the bill as it relates to notary issues. On the issue of absentee ballots, however, he added his understanding that those ballots can be witnessed by another person and so would not necessarily have to be notarized; notarization is just one of two options. In

response to another question, he said he has not been involved with the issue of electronic voting.

CHAIR McGUIRE, after determining that no one else wished to testify, closed public testimony on HB 285. In response to questions, she expressed a preference for having the bill moved along, surmising that answers to the committee's questions will arrive before the bill is calendared for the House floor.

REPRESENTATIVE GRUENBERG indicated that he had no objection to moving the bill out.

Number 2037

REPRESENTATIVE ANDERSON moved to report the proposed CS for HB 285, Version 23-LS0829\D, Bannister, 10/6/03, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 285(JUD) was reported from the House Judiciary Standing Committee.

ADJOURNMENT

Number 2025

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:00 p.m.