

LEGISLATIVE BILL 11

Approved by the Governor March 9, 2005

Introduced by Landis, 46

AN ACT relating to state government; to authorize use of electronic postmarks as prescribed.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) It is the intent of the Legislature to promote economic growth and the efficient operation of business and government in Nebraska through the electronic exchange of information and legally binding electronic communications. In order to facilitate the electronic exchange of information, Nebraska must establish means to ensure that electronic communications are legally binding and enforceable, while ensuring that security measures are in place to prevent opportunities for fraud and misuse.

(2) A state agency may use an email address from any person the state agency regulates or does business with, or an email address from the agent for service of process of that person, for any communication with such person.

(3) A communication postmarked by an electronic postmark provided by the United States Postal Service may be used to verify that a record of a state agency is true and correct. Notwithstanding any other statute to the contrary, a communication postmarked by an electronic postmark by the United States Postal Service may be used by a state agency in lieu of certified mail or certified mail, return receipt requested, in complying with any statutory requirement for providing a communication by certified mail or certified mail, return receipt requested. However, the use or acceptance of an electronic postmark shall be at the option of the parties to the communication and shall require consent by the sender and the receiver of the communication to that method of communication.

(4) This section shall not be construed to require a person or state agency to use or permit the use of an electronic postmark, to authorize the use of an email address for service of process of legal documents upon a party to a lawsuit, or to invalidate electronic communications or verification of such communications which are valid under any other applicable law.

(5) The Secretary of State may adopt and promulgate rules and regulations to carry out this section. The rules and regulations shall consider the persons who do not have an email address. In developing the rules and regulations, the Secretary of State shall seek the advice of public and private entities, including the Department of Administrative Services.

(6) For purposes of this section:

(a) Electronic postmark means an electronic service provided by the United States Postal Service that provides evidentiary proof that an electronic document existed in a certain form at a certain time and the electronic document was opened or the contents of the electronic document were displayed at a time and date documented by the United States Postal Service; and

(b) State agency means any agency, board, court, state postsecondary educational institution, or constitutional officer of the executive, judicial, and legislative branches of state government, except individual members of the Legislature.