

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1105

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1105

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1105

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-11-05

Tape Number

1

Side A

x

Side B

Meter #

0-8.1

Committee Clerk Signature



Minutes:

Chairman Keiser: Opened the hearing on HB 1105. All committee members were present.
(REP. BOE-ABSENT).

Illona A. Jeffcoat-Sacco, Executive Secretary Director, Public Utilities Division PSC:
appeared in support of HB 1105 and provided written testimony. (SEE ATTACHED
TESTIMONY).

Representative Kasper: What are the penalties for violation of this statute?

Illona A. Jeffcoat-Sacco: We have a general penalty in all utility law, I believe it is \$5000.00 for
a violation and a criminal penalty for a misdemeanor. There is a possibility of cease and assist.
The penalty goes to the state.

No opposition.

Representative Froseth: Made a motion to DO PASS.

Representative Ekstrom: SECOND the motion on HB 1105.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1105

Hearing Date 1-11-05

Motion Carried. **VOTE:** **13-YES** **0-NO** **1-ABSENT Rep. Boe).**

Representative Dietrich will carry the bill to the floor.

Date: 1-11-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1106

House

INDUSTRY, BUSINESS AND LABOR

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Froseth

Seconded By

Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	A	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes)

13

No

0

Absent

(1) Rep. Boe

Floor Assignment

Rep. Dietrich.

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

REPORT OF STANDING COMMITTEE (410)
January 11, 2005 10:57 a.m.

Module No: HR-06-0250
Carrier: Dietrich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1105: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1105 was placed on the Eleventh order on the calendar.

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1105

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1105

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-02-05

Tape Number	Side A	Side B	Meter #
1	xxx		4421-end
1		xxx	0-75

Committee Clerk Signature

Lisa VanBerkom

Minutes: **Chairman Mutch** opened the hearing on HB 1105. All Senators were present.

HB 1105 relates to unauthorized telecommunications services.

Ilona Jeffcoat-Sacco, Executive Secretary Director of the Public Service Commission,

introduced the bill. See written.

Senator Fairfield: How come we are running out of numbers?

Ilona: I think the biggest reason is competition in wireless. Every company has a set of prefixes.

Tony Clark: Just to add a little more, the reason that state commissions have tried to conserve

area codes. There are a couple of things that happen once you get a new area code in the state.

You either overlay all of the new numbers on top of the old numbers, which would force

everyone to do ten digit dialing. Even for local calls. Or you can enact an area code split. That is

also not very popular idea. You are then forcing half of the state to give up their phone number,

businesses have to rewrite all of their stationary, etc. The FCC has provided that state

commissions can do certain things, to put off that date and that is the authority that we are looking for.

Senator Klein: The amendment only gives you flexibility to try to control that time in the future when we would have to do this.

Tony: We don't know exactly.

David Crothers, North Dakota Association of Telephone Cooperatives, spoke in support of the bill, but not the amendment.

Senator Heitkamp: I think they said the problem isn't looking at us until 2009. So obviously, would the next session be enough time to fix this?

Crothers: I agree, it is enough time.

The hearing was closed. No action was taken.

On March 15, 2005, the committee met to make a recommendation on this bill.

Senator Heitkamp moved a DO PASS. Senator Klein seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Espgaard

March 15, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1105

Page 1, line 1, after "reenact" insert "subsection 14 of section 49-21-01.7 and"

Page 1, line 2, after "to" insert "numbering resource authority and to"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Subsection 14 of section 49-21-01.7 of the North Dakota Century Code is amended and reenacted as follows:

14. Investigate and resolve numbering issues relating to assignment of NII dialing codes⁵ and resolve numbering resource conservation administration and area code assignment issues in accordance with the federal communication commission's numbering resource orders. The commission's jurisdiction with regard to numbering resource conservation administration is limited to those prefixes that are unassigned on January 1, 2005."

Renumber accordingly

Date: 3-15-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Industry, Business, and Labor

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amend

Motion Made By Heitkamp

Seconded By Espegard

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

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

Date: 3-15-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1105

Senate Industry, Business, and Labor

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DPAM

Motion Made By Heitkamp

Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espegard

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

REPORT OF STANDING COMMITTEE

HB 1105: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1105 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 14 of section 49-21-01.7 and"

Page 1, line 2, after "to" insert "numbering resource authority and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Subsection 14 of section 49-21-01.7 of the North Dakota Century Code is amended and reenacted as follows:

14. Investigate and resolve numbering issues relating to assignment of NII dialing codes and resolve numbering resource conservation administration and area code assignment issues in accordance with the federal communication commission's numbering resource orders. The commission's jurisdiction with regard to numbering resource conservation administration is limited to those prefixes that are unassigned on January 1, 2005."

Renumber accordingly

2005 TESTIMONY

HB 1105

H. B. 1105

Presented by: Illona A. Jeffcoat-Sacco
Executive Secretary
Director, Public Utilities Division
Public Service Commission

Before: Industry, Business and Labor
Honorable George Keiser, Chairman

Date: 11 January 2005

TESTIMONY

Mr. Chairman and committee members, my name is Illona Jeffcoat-Sacco. I am the Executive Secretary of the Public Service Commission and Director of the Public Utilities Division. The Commission asked me to appear here today to testify in favor of House Bill 1105, introduced at our request.

North Dakota has a statutory provision prohibiting the practice known as "slamming." When a telephone company switches a customer to that company for service without that customer's consent (and often without that customer's knowledge), we say that customer has been "slammed."

The list of laws in the statute that is the subject of this bill is a list of laws that all competitive local exchange telecommunications companies must follow. North Dakota's slamming prohibition was inadvertently omitted from this list and the purpose of this bill is to correct that error. While slamming was initially a problem

associated mainly with long distance service, today there is competition among local providers as well, and the statutory prohibition against slamming in all areas of telecommunications service should be clear.

This completes my testimony. I will be happy to answer any questions you may have.

H. B. 1105

Presented by: Illona A. Jeffcoat-Sacco
Executive Secretary
Director, Public Utilities Division
Public Service Commission

Before: **Senate Industry, Business and Labor**
Honorable Duane Mutch, Chairman

Date: **2 March 2005**

TESTIMONY

Mr. Chairman and committee members, my name is Illona Jeffcoat-Sacco. I am the Executive Secretary of the Public Service Commission and Director of the Public Utilities Division. The Public utilities division implements the states' policy regarding telephone, gas and electric utilities. The Commission asked me to appear here today to testify in favor of House Bill 1105, introduced at our request.

North Dakota has a statutory provision prohibiting the practice known as "slamming." When a telephone company switches a customer to that company for service without that customer's consent (and often without that customer's knowledge), we say that customer has been "slammed."

The list of laws in the statute that is the subject of this bill is a list of laws that all competitive local exchange telecommunications companies must follow. North Dakota's slamming prohibition was

inadvertently omitted from this list and the purpose of this bill is to correct that error. While slamming was initially a problem associated mainly with long distance service, today there is competition among local providers as well, and the statutory prohibition against slamming in all areas of telecommunications service should be clear.

We do have one amendment to this bill which we are asking the committee to favorably consider. I have attached a copy of the amendment to this testimony, as well as a copy of the full section of law affected by this amendment.

After the time for pre-filing bills had passed, it came to our attention that North Dakota could face numbering resource issues earlier than we expected. The Commission needs additional statutory authority to handle these issues.

As you all probably know, other areas of the country have experienced number shortages and the consequent addition of new area codes. This is one type of numbering resource issue that we will eventually face. The proposed amendment adds a section to HB 1105 intended to provide the Commission with the necessary statutory authority to address numbering resource issues such as this, on a going forward basis.

This completes my testimony. I will be happy to answer any questions you may have.

PROPOSED AMENDMENT TO HOUSE BILL NO. 1105

Page 1, line 1 after "reenact" insert "subsection 14 of section 49-21-01.7 and"

Page 1, line 2, after "to" insert "numbering resource authority and to"

Page 1, line 4, after "**AMENDMENT.**" Insert:

"Subsection 14 of section 49-21-01.7 of the North Dakota Century Code is amended and reenacted as follows:

14. Investigate and resolve numbering issues relating to assignment of NII dialing codes, and resolve numbering resource conservation administration and area code assignment issues in accordance with the Federal Communications Commission's numbering resource orders on a going forward basis.

SECTION 2. AMENDMENT."

Renumber accordingly

PROPOSED AMENDMENT TO HOUSE BILL NO. 1105

Page 1, line 1 after "reenact" insert "subsection 14 of section 49-21-01.7 and"

Page 1, line 2, after "to" insert "numbering resource authority and to"

Page 1, line 4, after "**AMENDMENT.**" Insert:

"Subsection 14 of section 49-21-01.7 of the North Dakota Century Code is amended and reenacted as follows:

14. Investigate and resolve numbering issues relating to assignment of NII dialing codes, and resolve numbering resource conservation administration and area code assignment issues in accordance with the Federal Communications Commission's numbering resource orders. The commission's jurisdiction with regard to numbering resource conservation administration is limited to those prefixes that are unassigned on January 1, 2005.

SECTION 2. AMENDMENT."

Renumber accordingly

49-21-01.7. Powers in general. The commission has the power to:

1. Investigate all methods and practices of telecommunications companies.
2. Require telecommunications companies to conform to the laws of this state and to all rules, regulations, and orders of the commission not contrary to law.
3. Require copies of reports as to rates, prices, and terms and conditions of service in effect and used by the company, and all other information deemed relevant and necessary by the commission in the exercise of its authority.
4. Compel obedience to its lawful orders by proceedings of mandamus or injunction or other proceedings, in the name of the state, in any court having jurisdiction of the parties or of the subject matter.
5. Hold hearings on good cause being shown, upon notice and subject to the provisions of chapter 28-32.
6. Employ and fix the compensation of experts, engineers, auditors, attorneys, and other such assistance for complaints, investigations, and other proceedings relating to telecommunications companies. The expense of any hearings, and the compensation and actual expenses of any employees of the commission while engaged upon any such hearings must, upon the order of the commission, be paid by the telecommunications company involved in such hearings. The commission shall ascertain the exact cost and expenditure. After giving the telecommunications company notice and opportunity to demand a hearing, and after a hearing, if any, is held, the commission may render a bill and make an order for payment. The bill and order must be delivered by certified mail or personal delivery to the managing officer of the telecommunications company. Upon receipt of the bill and order for payment, the telecommunications company has thirty days within which to pay the amount billed. All amounts not paid within thirty days after receipt of the bill and order for payment thereafter draw interest at the rate of six percent per annum. Amounts collected by the commission under this subsection relating to expenses of the regulatory reform review commission must be deposited in the general fund of the state treasury. All other amounts collected by the commission under this subsection must be deposited in a special account within the public service commission.
7. Act upon an application for a certificate of public convenience and necessity under chapter 49-03.1 consistent with section 253 of the federal act, provided a telecommunications company is not required to obtain a certificate of public convenience and necessity to resell telecommunications services.
8. Mediate or arbitrate agreements for interconnection, services, or network elements under sections 251 and 252 of the federal act.
9. Approve or reject agreements for interconnection, services, or network elements under sections 251 and 252 of the federal act.
10. Receive and approve or reject a statement of generally available terms under section 252(f) of the federal act.
11. Determine whether to terminate a rural telephone company's exemption under section 251(f) of the federal act.
12. Designate telecommunications companies as eligible telecommunications carriers to receive universal service support under sections 214 and 254 of the federal act.
13. Designate geographic service areas for the purpose of determining universal service obligations and support mechanisms under the federal act.

14. Investigate and resolve numbering issues relating to assignment of NII dialing codes.
15. Adopt rules consistent with state law as are necessary to carry out the powers in subsections 7 through 13 provided the rules may not impose obligations on a telecommunications company that are greater than obligations imposed under the act.

49-21-01.8. Eligible telecommunications company requirements. A telecommunications company may not be an eligible telecommunications carrier unless the company offers all services supported by federal universal service mechanisms throughout the study area.

49-21-02. Telecommunications companies - Common carriers - Public policy. All persons providing telecommunications service within this state shall be common carriers and are hereby declared to be affected with a public interest and subject to regulation and general supervision by the commission. Among the purposes to be served by such regulation and supervision are:

1. To make available to all people of this state modern and efficient telecommunications services at the most economic and reasonable cost.
2. To allow the development of competitive markets for telecommunications services where such competition does not unreasonably distract from the efficient provision of telecommunications services to the public, and to lessen regulation in whole or in part of those telecommunications services which become subject to effective competition.
3. To establish and maintain reasonable charges for telecommunications services without unreasonable discrimination, or unfair or destructive competitive practices.
4. To ensure that regulated charges do not include the costs of unregulated activities.
5. To encourage the establishment and maintenance of a strong telecommunications industry.

49-21-02.1. Authority to exempt from regulation. Repealed by S.L. 1999, ch. 411, § 13.

49-21-02.2. Cross-subsidization prohibited. Revenues obtained from regulated telecommunications services, including essential and nonessential telecommunications services, may not be used to subsidize or otherwise give advantage to a telecommunications company in its unregulated services, and revenues from essential telecommunications services may not be used to subsidize or otherwise give advantage to a telecommunications company in its nonessential telecommunications services. The commission may require a telecommunications company to keep separate books of account, to allocate costs in accordance with procedures established by rule or order of the commission, and to perform other acts that will assist the commission in enforcing this section. The price charged for an unregulated telecommunications service or a nonessential telecommunications service must cover the cost of providing that service.

49-21-02.3. Directors, trustees, officers, and managers - Immunity from civil liability. Directors, trustees, and officers of mutual telephone companies, and the manager of a mutual telephone company who is the person most responsible for carrying out the policies and directives of the trustees, officers, or board of directors, are immune from civil liability for any act or omission relating to their service or function as a director, trustee, officer, or manager, unless the act or omission constitutes gross or willful negligence or gross or willful misconduct.

49-21-02.4. Unauthorized telecommunications service.