

Committee Report

CONSENT CALENDAR

February 8, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 302,

AN ACT relative to the creation and use of electronic records by government agencies. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. Carol McGuire

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 302
Title:	relative to the creation and use of electronic records by government agencies.
Date:	February 8, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill clarifies the authority of the Department of Information Technology (DOIT) to set standards for electronic records. It also confirms that municipalities may use electronic records, at their option, without waiting for the state to set standards. It is supported by the NH Municipal Association and the counties, as well as DOIT.

Vote 19-0.

Rep. Carol McGuire
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 302, relative to the creation and use of electronic records by government agencies. **OUGHT TO PASS.**

Rep. Carol McGuire for Executive Departments and Administration. This bill clarifies the authority of the Department of Information Technology (DOIT) to set standards for electronic records. It also confirms that municipalities may use electronic records, at their option, without waiting for the state to set standards. It is supported by the NH Municipal Association and the counties, as well as DOIT. **Vote 19-0.**

Archived: Tuesday, April 20, 2021 9:15:16 AM
From: [Miriam Simmons](#)
Sent: Tuesday, April 20, 2021 9:09:11 AM
To: [Miriam Simmons](#)
Subject: HB 302 Blurbs, 2/8
Response requested: No
Importance: Normal

From: Carol McGuire <mcguire4house@gmail.com>
Sent: Tuesday, February 9, 2021 10:51 AM
To: [Miriam Simmons <miriam.simmons@leg.state.nh.us>](mailto:miriam.simmons@leg.state.nh.us); [Pam Smarling <Pam.Smarling@leg.state.nh.us>](mailto:Pam.Smarling@leg.state.nh.us)
Subject: Blurbs, 2/8

HB 302, on the creation and use of electronic records.

OTP, 19-0, CC

This bill clarifies the authority of the department of information technology (DOIT) to set standards for electronic records. It also confirms that municipalities may use electronic records, at their option, without waiting for the state to set standards. It is supported by the Municipal Association and the counties, as well as DOIT.

Carol McGuire for the committee

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 302

BILL TITLE: relative to the creation and use of electronic records by government agencies.

DATE: February 8, 2021

LOB ROOM: Remote / Hybrid

MOTIONS: OUGHT TO PASS

Moved by Rep. McGuire

Seconded by Rep. P. Schmidt

Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John Sytek, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS & ADMINISTRATION

EXECUTIVE SESSION on Bill # HB 302

BILL TITLE: RELATIVE TO CREATION AND USE OF ELECTRONIC RECORDS
THE BY GOVERNMENT AGENCIES.

DATE: 2-8-21

LOB ROOM: 206-208

MOTION: (Please check one box)

- OTP ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. McGUIRE Seconded by Rep. SCHMIDT Vote: 19-0

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____


MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: 
Rep. John Sytek, Clerk



1/22/2021 9:57:48 AM
Roll Call Committee Registers
Report

2021 SESSION

Executive Departments and Administration

Bill #: HB 302 Motion: OTP AM #: _____ Exec Session Date: 2-8-21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	X		
Roy, Terry Vice Chairman	X		
Sytek, John Clerk	X		
Pearson, Stephen C.	X		
Yakubovich, Michael	X		
Lekas, Tony	X		
Alliegro, Mark C.	X		
Bailey, Glenn	X		
Lanzara, Tom E.	X		
Santonastaso, Matthew	X		
Goley, Jeffrey P.	X		
Schuett, Dianne E.	X		
Jeudy, Jean L.	X		
Schmidt, Peter B.	X		
Schultz, Kristina M.	X		
Fellows, Sallie D.	X		
Fontneau, Timothy J.	X		
Grote, Jaci L.	X		
O'Brien, Michael B.	X		
TOTAL VOTE:			

19-0

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 302

BILL TITLE: relative to the creation and use of electronic records by government agencies.

DATE: February 8, 2021

LOB ROOM: LOB Hybrid **Time Public Hearing Called to Order:** 10:40 a.m.

Time Adjourned: 11:10 a.m.

(please circle if present)

Committee Members: Reps. McGuire, Roy, Sytek, S. Pearson, Yakubovich, Lekas, Alliegro, Bailey, Lanzara, Santonastaso, P. Schmidt, Schultz, Goley, Jeudy, Schuett, Fellows, Fontneau, Grote, M. O'Brien

ALL PRESENT

Bill Sponsors:
Rep. L. Ober

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

**HB 302 relative to the creation and use of electronic records by government agencies.
(10:40/11:10)**

Rep. Lekas introduced the bill and deferred questions to later speakers.

Margaret Byrnes, Executive Director of the NH Municipal Ass'n, spoke in support.

She gave some background: municipalities have been transitioning to electronic records and signatures as a matter of efficiency and cost savings. The pandemic has made the need greater. She said that while the law permitted this, standards were required. The Governor's emergency order gave authorization for this practice. This bill, developed with DOiT would permit municipalities to continue electronic use even after the emergency orders were over and without standards being developed. The bill is permissive both with to municipalities using electronic records and the DOiT developing standards. There was a committee question regarding language: "must" changing to "should" or "may."

Shaun Mulholland spoke in support

and said that the opportunity to develop standards has been in place since 9/11. While standards have been developed for state agencies, none have been developed for municipalities, in his opinion, because of a lack of resources. He looked forward to working with DOiT, Secretary of State and DAS to development of standards when resources become available.

Public hearing adjourned at 11:10 a.m.

Respectfully submitted by
Rep. John Sytek
Committee Clerk

FEB 8 2021
Public Hearing
By Rep Sytek, Comm Clerk

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(10:40/11:10)**

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>Shaun Mulholland spoke in support and said that the opportunity to develop standards has been in place since 9/11. While standards have been developed for state agencies, none have been developed for municipalities, in his opinion, because of a lack of resources. He looked forward to working with DOiT, Secretary of State and DAS to development of standards when resources become available.

House Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB302 on 2

Support: 5 Oppose: 0 Neutral: 0 Total to Testify: 2

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>1</u>
Byrnes, Margaret	mbyrnes@nhmunicipal.org	603.230.3377	A Lobbyist	NH Municipal Association	Support	Yes (3m)	2
Mulholland, Shaun	shaun.mulholland@lebanonnh.gov	603.448.4220	A Member of the Public	City of Lebanon	Support	Yes (0m)	1
Horgan, Kate	khorgan@dupontgroup.com	603.228.3322	A Lobbyist	NH Association of Counties	Support	No	2
Ward, Tyler	tyward1198@gmail.com	603.315.5134	An Elected Official	Myself	Support	No	2
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Support	No	2

Testimony



CITY MANAGER'S OFFICE

City of Lebanon, NH
51 North Park Street
Lebanon, NH 03766
(603) 448-4220
www.LebanonNH.gov

January 29, 2021

Chairperson Carol McGuire and Committee Members
House Executive Departments and Administration Committee

RE: HB 302 Relative to the creation and use of electronic records by government agencies

The City worked with DoIT and the NHMA to address some of the wording contained within RSA 294-E. This RSA provides the statutory authority for state, county and municipal governments to utilize electronic signatures and electronic documents. The present language places the responsibility for determining whether and to the extent governmental entities within the state can create and retain electronic documents with DoIT, the Secretary of State's Office and Administrative Services. DoIT in cooperation with the other two agencies have created standards for state agencies however no standards have been created for counties and municipalities.

Some have interpreted the present language to mean that electronic documents cannot be created or retained by governmental entities absent a specific authorization from these state agencies. The conclusion being that county and municipal governments do not have the authority to create and retain electronic documents at the present time. RSA 294-E was passed into law on September 11, 2001. As we approach 20 years no standards have been created that would "authorize" counties and municipalities to create and retain electronic documents. The use of electronic documents and electronic signatures is very common in local government as well as the private sector.

Recently the need for and utilization of electronic documents and electronic signatures has grown dramatically due to the COVID-19 pandemic. Governor Sununu issued Emergency Order #23 on April 1, 2020 which temporarily relieves counties and municipalities from this restriction. As you know this emergency order will only last as long as the emergency lasts.

The proposed changes clarify the authority of counties and municipalities to create electronic documents and utilize electronic signatures. The proposed changes will retain the authority of DoIT, the Secretary of State's Office and Administrative Services to create standards for counties and municipalities. I would urge the committee to recommend the passage of this bill to the full House of Representatives.


If I can be of any further assistance or if you have further questions regarding this bill, please do not hesitate to contact me.

DocuSigned by:

AE8C225904D9436...
Shaun Mulholland
City Manager

Cc: Cordell Johnston, NHMA

Commissioner Denis Goulet, NH DoIT

Archived: Wednesday, April 7, 2021 12:36:51 PM
From: [Shaun Mulholland](#)
Sent: Friday, January 29, 2021 12:32:53 PM
To: ~House Executive Departments and Administration
Subject: HB 302 Letter of Support-City of Lebanon
Importance: Normal
Attachments:
[HB 302 L of Support-Lebanon.pdf](#) 

Please distribute this letter of support to members of the committee.

Shaun Mulholland
City Manager
City of Lebanon
51 North Park St.
Lebanon, N.H. 03766
603-448-4220
<https://lebanonnh.gov>

Archived: Wednesday, April 7, 2021 12:36:52 PM
From: Susan Cragin
Sent: Monday, February 8, 2021 10:55:56 AM
To: ~House Executive Departments and Administration
Subject: Testimony on #302 - neither in support nor in opposition
Importance: Normal

Dear Sirs and Mesdames:

I would like to bring to the committee's attention that county Registries of Deeds must follow the regulations, including copy regulations, found in the following legislation:

<https://www.gencourt.state.nh.us/rsa/html/XLVIII/478/478-mrg.htm>

For us these requirements may supersede the changes in HB 302 in the event of conflict.

I have no opinion on the legislation and do not wish to speak.

Yours truly,
Susan Cragin
Register of Deeds
Merrimack County

Bill as
Introduced

HB 302 - AS INTRODUCED

2021 SESSION

21-0547

05/10

HOUSE BILL **302**

AN ACT relative to the creation and use of electronic records by government agencies.

SPONSORS: Rep. L. Ober, Hills. 37

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill clarifies the authority of the department of information technology, in cooperation with the secretary of state and the department of administrative services, to set standards for the creations, retention, and acceptance of electronic records by government agencies.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the creation and use of electronic records by government agencies.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Creation, Retention, Acceptance and Distribution of Electronic Records by Government
2 Agencies. Amend RSA 294-E:17 and RSA 294-E:18 to read as follows:

3 294-E:17 Creation and Retention of Electronic Records and Conversion of Written Records by
4 Governmental Agencies. The secretary of state in cooperation with the department of information
5 technology and the department of administrative services~~[- shall determine whether, and the extent~~
6 ~~to which,]~~ **may create standards by which** a governmental agency ~~[will]~~ **may** create and retain
7 electronic records and convert written records to electronic records.

8 294-E:18 Acceptance and Distribution of Electronic Records by Governmental Agencies.

9 I. Except as otherwise provided in RSA 294-E:12, VI, the department of information
10 technology, in cooperation with the secretary of state and the department of administrative services~~[-~~
11 ~~shall determine whether, and the extent to which,]~~ **may develop standards by which** a
12 governmental agency ~~[will]~~ **may** send and accept electronic records and electronic signatures to and
13 from other persons and otherwise create, generate, communicate, store, process, use, and rely upon
14 electronic records and electronic signatures. ***Nothing in this chapter shall be construed to***
15 ***prevent municipalities from using electronic records or signatures.***

16 II. To the extent that a governmental agency uses electronic records and electronic
17 signatures under paragraph I, the department of information technology, in cooperation with the
18 secretary of state and the department of administrative services, giving due consideration to
19 security, may **create standards to** specify:

20 (a) The manner and format in which the electronic records ~~[must]~~ **may** be created,
21 generated, sent, communicated, received, and stored and the systems established for those purposes;

22 (b) If electronic records must be signed by electronic means, the type of electronic
23 signature ~~[required]~~, the manner and format in which the electronic signature ~~[must]~~ **should** be
24 affixed to the electronic record, and the identity of, or criteria that ~~[must]~~ **should** be met by, any
25 third party used by a person filing a document to facilitate the process;

26 (c) Control processes and procedures as appropriate to ensure adequate preservation,
27 disposition, integrity, security, confidentiality, and auditability of electronic records; and

28 (d) Any other required attributes for electronic records which are specified for
29 corresponding nonelectronic records or reasonably necessary under the circumstances.

HB 302 - AS INTRODUCED

- Page 2 -

1 III. Except as otherwise provided in RSA 294-E:12, VI, this chapter does not require a
2 governmental agency of this state to use or permit the use of electronic records or electronic
3 signatures.

4 2 Effective Date. This act shall take effect 60 days after its passage.