

2011 SENATE HUMAN SERVICES

SB 2258

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2258
1-26-2011
Job Number 13491

Conference Committee

Committee Clerk Signature *AM Wilson*

Explanation or reason for introduction of bill/resolution:

Relating to child support enforcement.

Minutes:

Attachments.

Senator Judy Lee opened the hearing on SB 2258.

Senator Judy Lee, District 13, introduced this bill and explained that it was brought forth as a result of the work done by a task force during the interim which dealt with the business community and the participation they have with child support enforcement.

Senator Lonnie Laffen, District 43, spoke about the effects on a small business. This issue was inserted into the current federal health care bill. His company would have about 150 vendors that would now qualify to have to receive this reporting – the 1099. It was their estimation that it would take about an hour per vendor setting it up and putting the form together at a cost of approximately \$6,000 to his company.

Mr. James Fleming, Dept. of Human Services Child Support, spoke in support. Attachment #1 includes the task force final report and a copy of a 1099 MISC form.

Senator Dick Dever asked if there was a way to amend sections 5 and 6 to relieve concerns.

Mr. Fleming answered yes. He was looking forward to hearing the concerns on all parts of the bill. Throughout the process the dept. has been committed to finding consensus items and things that will work.

In answer to a question concerning buying a vehicle, Mr. Fleming pointed out that good faith purchasers are protected unless the title is marked.

Dan Ulmer, BC/BS, spoke in opposition and offered amendments. Attachment #2

Bill Shalhoob, ND Chamber, spoke in opposition to those sections requiring organizations to report 1099 information to the Dept. of Human Services. He did not have written testimony but submitted it later. Attachment #3

Senator Tim Mathern asked about the time frame of repealing this type of thing on the federal level.

Mr. Shalhoob hadn't heard anything on this.

Senator Spencer Berry asked if he felt the expense and burden of sending out the 1099's is in excess of what they hope to recoup in terms of child support payments and if he had any other suggestions on what might help that situation.

Mr. Shalhoob replied yes considering the volume. A suggestion he had was putting the registry on line and making it a requirement to check those names against any new hires.

Senator Judy Lee pointed out that business people recognize that if we don't collect child support we are paying for it from somewhere else.

Senator Dick Dever asked if he knew what the penalty, if any, was for non compliance on the part of the employer.

Mr. Shalhoob did not know.

Kelton Hullet President of the Bismarck/Mandan Chamber, went back to Senator Tim Mathern's question about the US Chamber. This is on the radar screen. In October/November right after the health care bill was passed the US Chamber had introduced the small business paperwork reduction act related to the 1099. It did not go anywhere in the last session. He is optimistic that this year the 1099 requirement could go away on the health care bill.

Mike Rud, ND Retail Association, Propane Gas Assoc., & the Petroleum Marketers, reported that their members are very concerned about the burden that would come with the 1099 reporting requirement. Amending out 5, 6, 7, might be a good start. This is a process that needs continued work.

Dale Haake, ND Mutual Ins., provided opposing testimony. Attachment #4

Senator Judy Lee asked, if it is voluntary, how an insurance company determines whether or not to participate on an individual basis.

Mr. Haake replied that it simply is a decision that the company makes – a business decision.

Steve Spilde, NDIRF, opposed portions of SB 2258. Attachment #5 included amendments.

Senator Tim Mathern asked what the actual implementation is. He wanted to know how the voluntary choice worked in practice.

Mr. Spilde replied that in his view the voluntary match would be defining a particular class of claim and supplying the claimant's information across the board for that type of claim.

The types of claims they are talking about are third party claims for bodily injury.

Patrick Ward, ND Domestic Insurance Co., testified in opposition. They would support section 2 on a voluntary basis. Some of the companies are doing it. They oppose section 3 and 4. He made additional points based on his experience as a lawyer and a mediator. He basically supports the position and amendments offered by Mr. Spilde and the statements made by Mr. Haake who participated in the task force.

There was no further testimony.

The hearing on SB 2258 was closed.

Senator Judy Lee suggested to those present that they might work with Mr. Fleming and members of the committee in trying to blend some of the expressed concerns and come up with something palatable which still accomplishes the goals.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2258
1-31-2011
Job Number 13748

Conference Committee

Committee Clerk Signature *[Handwritten Signature]*

Explanation or reason for introduction of bill/resolution:

Minutes:

Senator Judy Lee opened SB 2258 for discussion.

Concerns that were addressed in the testimony during the hearing were reviewed.

There is no fiscal impact.

It was suggested to have Jim Fleming come before the committee again to discuss areas of concern and bring amendments that might address those concerns.

There was discussion on putting a list online. There is reluctance to put those who are delinquent on because of certain circumstances that aren't necessarily just blatant denial of payment.

The committee discussion was adjourned.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2258
2-15-2011
Job Number 14578

Conference Committee

Committee Clerk Signature

AMORSON

Explanation or reason for introduction of bill/resolution:

Minutes:

Senator Judy Lee opened SB 2258 for committee work. She asked Jim Fleming to review the concerns expressed in the testimony.

Mr. Fleming said the insurance match is probably the more straightforward question. It is a voluntary process now and the bill contains consensual improvement to that process that will work better for child support and the insurance industry. It comes down to the question whether the insurance matching ought to be mandated or not. He reminded the committee that the effective date for mandating is delayed until 2013 to give people a chance to get used to the idea of it being mandated.

Senator Judy Lee pointed out that was the idea from the business task force to have a stretch of time to encourage voluntary participation. Then if there were challenges it could be addressed during the next legislative session. The mandate at the end would be the incentive.

Discussion continued – The process in place allows some latitude in considering whether or not a claim is appropriate by child support against that system. It is important to remember that just because there is a match that does not mean they are going to seize the claim.

By law, all payments are supposed to come through the state disbursement unit. There are a lot of people who don't read their judgment and don't pay through the state disbursement unit. They pay mom or dad directly until they are issued a contempt citation.

Concern about insurance firms was addressed. Private insurers can't be asked to do something that government insurers are not prepared to do.

Subpoena power exists. The voluntary nature will remain under the bill as drafted.

Senator Tim Mathern asked for clarification that passage of the bill would put the public insurer on the same footing as a private insurer upon implementation.

Mr. Fleming said that was correct.

Jeb Oelke, ND Chamber of Commerce, was asked for comments on the voluntary insurance portion. He said that as a general business principal, the Chamber generally opposes mandates. But, he did not believe they specified any issue with the reporting of the insurance mandate in this bill.

When an insurance company voluntarily complies with this it puts them at a competitive disadvantage with those that do not. This disadvantage was discussed.

Mr. Fleming spoke about new hire reporting. It has been required since welfare reform in the late 90's. There is a website already out there to report new hires. He provided a copy of the website page – Attachment #6 First there is a match for ND and then it is uploaded to the national directories of new hires.

This bill would include contractor individuals. It would be informative to know where obligors are and would help to identify revenue streams for the obligor. New hire reporting is for employees only. Expanding to contractors will give more leads to where the self employed people are working.

There were concerns in the testimony about the format for reporting. He explained that it had been amended for consistency.

The intent was to expand new hire reporting, which currently works tremendously, to include contractors.

Discussion continued on how they would get the information from the private customers.

Senator Judy Lee asked to hear from BC/BS.

Rod St. Aubyn said the sections dealing with the contractor issue poses a lot of potential issues and problems. They find the reporting requirement for the employer for his/her contractors is cumbersome and it shifts responsibilities that should be the contractor's responsibility to the business.

"Recurring basis" was discussed.

The cost benefit needs to be looked at.

There was discussion on whether it was possible to get the 1099's from the State Tax Dept. It is Mr. Fleming's understanding that the dept. doesn't do anything with them such as sorting or indexing. They are all run in one bunch through the scanner.

There was a request to get information from the tax dept. about whether getting the information from them is possible and, if so, what it will cost to assemble the information.

The committee was adjourned.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2258
2-16-2011
Job Number 14616

Conference Committee

Committee Clerk Signature

AM London

Explanation or reason for introduction of bill/resolution:

Minutes:

Attachment

Senator Judy Lee opened SB 2258 for committee work. She asked Mr. Fleming to explain amendments he worked on to eliminate the 1099 reporting.

Mr. Fleming reviewed his amendments – draft 02/16/11. Attachment #7

There was discussion on putting in the date of hire. If it isn't put in now they would have until Oct. 2013 to do it. If it is put in now it would go into effect on Aug. 1. The task force bill says that they are going to give the employer community time to get used to the upcoming changes.

Topics discussed: Could this be creating a class of workers that are going to independent contractors because of the child support issues. There are very tight restrictions if you are going to call yourself an independent contractor from the IRS point of view.

The two areas that seem to be the most contentious and potential for amendment are the issue of independent contractors and the issue of the insurance reporting.

Dan Ulmer, BC/BS, reported that the tax department uses the 1099 basically as a dump as was discussed earlier. The department does help find obligors and create liens on taxes.

Mr. Fleming said there is a data exchange where the annual tax returns that have relevance are obtained and used in the three year reviews.

Senator Dick Dever moved to accept the draft 2-16-11 amendments.

Seconded by **Senator Gerald Ugem**.

Roll call vote 4-0-1. **Amendment adopted.**

Senate Human Services Committee

SB 2258

2-16-2011

Page 2

Senator Tim Mathern moved Do Pass as Amended.

Seconded by **Senator Gerald Uglem.**

Roll call vote 4-0-1. **Motion carried.**

Carrier is **Senator Judy Lee.**

FISCAL NOTE

Requested by Legislative Council
01/21/2011

Bill/Resolution No.: SB 2258

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This Bill contains various Child Support Enforcement provisions. However, the provision with the possible fiscal impact is related to the requirement that the Department of Human Services create and implement an online lien registry.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The potential fiscal impact is related to the creation and implementation of a web based lien registry. Creation of this registry would require programming changes be made to the Child Support Enforcement mainframe computer system. The budget for the Department already maximizes the use of programming resources available for the Child Support Enforcement mainframe program. If this Bill is passed the Department will reprioritize the programming and projects. Because of this reprioritization of programming projects this Bill has no fiscal impact.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

- A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	01/24/2011

Jim Fleming
2-15-2011

#7

DRAFT
02/16/11

Summary of Amendment: Remove proposed law changes requiring new hire reporting of independent contractors.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2258

Page 1, line 3, remove "34-15-01,"

Page 1, line 4, remove the first "and" and remove "subsection 3 of section 34-15-05, sections"

Page 4, remove lines 10 through 30

Page 5, remove lines 1 through 7

Page 5, line 13, remove "or contractor"

Page 5, line 14, after "insurance" insert "to the employee"

Page 5, line 17, remove "or contractors" and remove "or hired"

Page 5, line 19, remove "or contractors"

Page 5, line 27, remove "or"

Page 5, line 28, remove "contractor"

Page 6, remove lines 1 through 3

Page 6, line 7, remove the overstrike over "~~W-4 form~~" and remove the overstrike over "~~or~~"

Page 6, line 8, remove the overstrike over "~~an equivalent~~"

Page 6, remove lines 19 through 24

Page 8, line 20, after the underscored comma insert "was"

Page 10, line 17, replace "10" with "8"

Page 10, line 18, replace "10" with "8"

Page 10, line 20, replace "16" with "14"

Re-number accordingly

Date: 2-16-11

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2258

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number Draft 2-16-11

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Sen. Dever Seconded By Sen. Uglem

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Dick Dever	✓				
Sen. Gerald Uglem, V. Chair	✓				
Sen. Spencer Berry					

Total (Yes) 4 No 0

Absent 1

Floor Assignment _____

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

February 16, 2011

J3
2-16-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2258

- Page 1, line 3, remove "34-15-01,"
 - Page 1, line 4, remove the first "and"
 - Page 1, line 4, remove "subsection 3 of section 34-15-05, sections"
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 - Page 5, line 27, remove "or"
 - Page 5, line 28, remove "contractor"
 - Page 6, remove lines 1 through 3
 - Page 6, line 7, remove the overstrike over "W-4 form"
 - Page 6, line 7, remove the overstrike over "er"
 - Page 6, line 8, remove the overstrike over "an equivalent"
 - Page 6, remove lines 19 through 24
 - Page 8, line 20, after the underscored comma insert "was"
 - Page 10, line 17, replace "10" with "8"
 - Page 10, line 18, replace "10" with "8"
 - Page 10, line 20, replace "16" with "14"
- Renumber accordingly

Date: 2-16-11

Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2258

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8219.01001 Title 02000

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Sen. Mathern Seconded By Sen. Uglem

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Dick Dever	✓				
Sen. Gerald Uglem, V. Chair	✓				
Sen. Spencer Berry					

Total (Yes) 4 No 0

Absent 1

Floor Assignment Sen. J. Lee

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

REPORT OF STANDING COMMITTEE

SB 2258: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2258 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "34-15-01,"

Page 1, line 4, remove the first "and"

Page 1, line 4, remove "subsection 3 of section 34-15-05, sections"

Page 4, remove lines 10 through 30

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Page 10, line 17, replace "10" with "8"

Page 10, line 18, replace "10" with "8"

Page 10, line 20, replace "16" with "14"

Renumber accordingly

2011 HOUSE HUMAN SERVICES

SB 2258

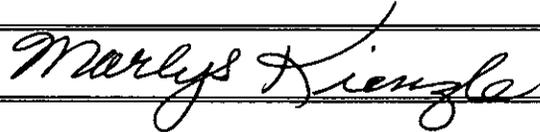
2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2258
March 7, 2011
Job # 15002

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to child support enforcement and to provide for transition and effective date.

Minutes:

See attached Testimony #1,2,3

Chairman Weisz: Opened the hearing on SB 2258.

Sen. Judy Lee District 13: I am here as a sponsor and to introduce the SB 2258. We had a business task force that included legislators, business people as well as Child Support Staff, in the last interim. The purpose was to resolve some of the questions as far as new hire reporting and to educate the business community about the need to participate as citizen of North Dakota in collecting the 285 million dollars in back child support that is owed. There was continuing concern about 1099 reporting. You may have heard more about that in the Federal Level reporting as well and has been removed from the former Health Care Act and the senate did amend that out. This bill talks about employers of more than 24 employees and what they need to do as far as reporting is concerned. We have voluntary reporting of insurance claims with a mandatory date starting in 2013. There have been Insurance companies that are already doing this voluntarily but there are other insurance companies that will not do this unless it is mandatory. We had a lot of discussion as to leaving it as voluntary but decided on having it be voluntary for the next two years and encourage participation from business and revisit this in 2013 if we want to leave it as is. There is concern about when a settlement is being made between insurances and the Child Support Unit.

Jim Fleming: Director of Child Support testified in support of the bill. (See Testimony #1) I am asking for your favorable consideration of Engrossed SB 2258.

Rep. Holman: Sometimes in filing a lien on someone, which was what you alluded to, could put the job in jeopardy. Has that ever happened?

Jim Fleming: With regards to employers, what we would do is an income withholding order, a sort of garnishment. We do not call it a lien. They are prohibited by law to discriminate against employees that are obligors. It is something we have heard concerns about but have not been given a good straight forward case where it has happened. At the beginning of the session I have inquired with the other State Directors whether they have

any legal tactics that they use that are different than ours. They did not. It is not a protectable Class for the Labor Department. There are legal remedies available but a difficult case to prove. What we do and we are the only state that does do this on an organized basis, is if an Obligor does not want to relinquish control of their payment through an employer, they can set up with us an automatic withdrawal from their bank account and the employer is not involved at all.

Chairman Weisz: Going back to the insurance data match, some of the discussion in the task force had to do with negotiating at the table and they want you to cut the check right then and there, which is part of the deal. The way the language is drafted, how is that going to work under those situations?

Jim Fleming: The answer is found on page 3 of the bill, which is language that would be affective this summer if it was enacted. Upon an agreement between the insurer and the department, if we file a lien against the claimant we can hold off sending a claimant a notice of that lien. Or the insurer can provide the claimant a notice sitting there. The insurer would know if they were free and clear to send the check because they are not an Obligor or that they are an Obligor. The match can occur before the meeting and the Insurer can go to that meeting knowing that they can go ahead and pay that check without delaying it because they are not an Obligor.

Rep. Devlin: What was the argument on the Senate side to take out the independent contractors?

Jim Fleming: The arguments on the Senate side had to do with how many contractors would have to get reported. The language in the original bill was not all 1099. It was a very small segment of the 1099 population. It was essentially for Independent Contractors for services, for individuals and not businesses, they had to be \$600 per year or more to trigger that 1099 requirement, it had to be a reoccurring arrangement not a onetime thing and it had to be an non emergency situation. The testimony was just concerns about did you really mean that or was there a lack of misunderstanding. At the end, the most persuasive testimony was due to the fact that you would be capturing the 1099 data when you were hiring the employee instead of anytime within the tax year. It accelerates the time frame of gather the information.

Rep. Porter: In section 5, the new component to that, it talks about wither you offer the health insurance to the employee it doesn't say at what level, cost or if it is a single plan only arrangement. How would rest of pertinent information be gathered on that kind of question?

Jim Fleming: If answer is yes, than it would prompt Child Support to follow up with the existing questionnaire we use today for the employers. It is more of a screening tool.

Rep. Porter: If we are going to do this electronically, why wouldn't we go to the next level and have the next box open up if you check yes? Inside of a bill like this there are going to be a lot of mandates like back to the business community that they are going to be doing for you for free. If I was going to explain this to a business there needs to be things in here that are good for businesses not just for you.

Jim Fleming: I agree with a lot of what you are saying. The electronic is a mandate only for larger businesses. The smaller businesses could still submit in paper. If they are submitting in paper they still have the box to mark yes they have health coverage, which is what they have today. When employer doesn't tell us of health coverage today, we have a questionnaire that covers these issues of benefits. What you are describing is what we want to set up. Part of the task force was to enhance our web site.

Rep. Porter: Your definition of a small business is different from mine since your definition includes 24 all employees, and does not differentiate between full or part time employees. In section 1, being a new business that is being mandated to use electronically writing checks, what is the cost back to the employer doing electronically rather than what is being done now?

Jim Fleming: There is no cost attached right now as you will be using our website. As far as you previous question, I know what you are saying. What the task force talked about is that we use the identical language that is used in the Job Service Law because if they hit that Job Service trigger they will all be in the same boat. The task force did discuss the large and small business and they felt they would have the consistent trigger point for the State Agencies that require electronic reporting one way or the other. So that is where this 24 employee count came from.

Rep. Porter: Not all of us voted for that one either.

Opposition

Dale Haake: Director of Casualty Claims for Nodak Mutual Insurance testified in opposition of the bill. (See Testimony #2)

Chairman Weisz: Do you feel language on subsection 5 of section 2 where it would allow you to settle that claim prior to releasing that lien, would address those concerns? You still think there are situation that are going to put you in a box?

Dale Haake: One thing we have to understand, before the settlement check is given the lien has to be presented. Once the legal community knows that this is being done or has been done and this type of information flows through an industry, like the trial bar group, very rapidly, it will quickly lose its effectiveness. What I assume is that the plaintiff's attorney will do their own screening and will ask their client do you owe any back child support. Once they know that information you lose the effectiveness.

Chairman Weisz: What you are saying to me if the department files a lien at all, you would argue that they shouldn't be able to file a lien against the insurance claim because obviously the legal community is going to know by viewing the lien registry. You don't think they won't pull up this lien registry and know that their client has a lien and that if the department can they will file a lien. Don't you think this will be up front regardless on every issue now?

Dale Haake: Not necessarily. The lien registry has existed a very long time. The ability of the department to file a lien against a settlement has existed a long time. The practice of the lien being filed against the settlement has not been very prominent, because not many carriers are doing it on a voluntary basis. So it is not common knowledge and is something that the plaintiff's attorneys typically screen for.

Gary Thune: General Counsel of ND Insurance Reserve Fund testified in opposition of the bill. (See Testimony #3)

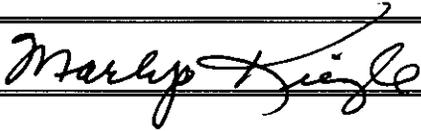
Chairman Weisz: Closed the hearing on SB 2258.

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2258
March 15, 2011
Job #15480

Conference Committee

Committee Clerk Signature 

Minutes:

no "attached testimony."

Chairman Weisz: Address SB 2258.

Rep. Kilichowski: This is similar to the bill we had 2 years ago isn't it?

Chairman Weisz: We rip most of that out. It did resolve most of the issues. Actually I think the Task Force did do good work as it resolved most of the issues to the satisfaction of the Financial Institutions. I thought there was more consensus on this issue than there appears to be as we heard on the hearing. My thought is that we have a subcommittee that we can work on this. The Insurance Reserve Fund has come to me a couple of times voicing their opposition.

Rep. Porter: I have a particular issue with section one. It mandates that electronic remittal of funds. If I have one employee even if changing the 24 to FT's wouldn't change me but if I have one employee that has withholding, it is just as easy for me to write a check as to set up some type of electronic transfer system. I have to set up the electronic transfer system regardless. The portion that says, "They may waive," but good luck with that. I would just as soon that Section 1 is stricken from the bill.

Chairman Weisz: I would have to somewhat disagree with you. If we need to put a specific exemption it does follow Job Service Rules. In Job Service you have all those employees where here you may only have one.

Rep. Porter: The thing about Job Service it is a report. It may be a quarterly or annual report. It is all on line and you type into their site and you finish the report. This happens every time your payroll and is like the gift that keeps on giving as far as mandates are concerned. There isn't this mandate for small business to do this.

Chairman Weisz: I will set up a subcommittee on this.

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2258
March 23, 2011
Job #15886

Conference Committee

Committee Clerk Signature *Vicky Crabtree*

Minutes:

See Attachment #1

Chairman Weisz: In 2258 there were really two issues that was brought up and in the hearing the biggest debate was the had to do with the insurance match. You are getting some amendments. (See Attachment #1) Take a look at that and I will explain what they do. The first part on page 1 with lines 12 and on deals with electronic distribution. If you have 25 more employees. The question came up if you only have one person you have to withhold, but you have 25 employees, why can't you write a check if you so desired? This amendment says if you have over 24 and have less than 5 you withhold on you can opt out by written request.

Rep. Porter: I'm unclear on the difference between on line 12 we are saying more than 4 and down below we are saying fewer than 5. Shouldn't the top one be more than 5?

Chairman Weisz: No because the other one is fewer than 5. More than 4 and fewer than 5 are the same thing.

Rep. Porter: So it is not 5 or more.

Chairman Weisz: That is a number that can be changed or you don't have to adopt that part either. Let's talk about the first part.

Rep. Porter: My concerns are of the mandate of small business. I think it addresses the mandate and lets the small companies to pay as they currently are. My personal preference would be 5, but that is just me.

Chairman Weisz: What does the committee think of the number? It is obviously an arbitrary number based some factors of what is and isn't minimal.

Rep. Porter: The other question I have is the way that this reads; are we trying to say there is four active at any given time or that over the course of 10 years you have received four orders and then automatically opted into it?

Chairman Weisz: I think it would be at anytime.

Rep. Kilichowski: Some employers hire seasonal workers and let's say they have 5 year round guys and 3 of them are paying support and come harvest time for 2 or 3 months they hire another half dozen a 2 or 3 of them are paying support.

Chairman Weisz: They don't have to pay electronically because they are not over the 24 threshold. Anyone can enter into the electronic remittal. If you have over 24, but if are less than 5 you can opt out.

Rep. Louser: When we are talk employees we are talking employees that withhold income tax.

Chairman Weisz: This is an employee that has federal withholding and you do a W-2. The second part of the amendment has to do with mandatory reporting. Two issues; there are currently several that are in-state companies that do the voluntary insurance reporting. There are a handful of national companies that do the reporting in-state that is mandated, but they don't do it here. The bill made it mandatory for all insurers to do it. There has been a big stink with the ND insurance reserve fund and the child support enforcement because the reserve fund basically said; we are not going cooperate with you. Now you have two state entities and they said get your subpoenas and sue us. What this bill does is leaves the private insurers voluntary and puts the insurance reserve fund as a mandatory. There are a couple of reasons for that. One they ought to be holding hands anyway and we heard testimony that if we did this that the settlements are going to go through the roof. We can get the data and information down the road and can look at it and see if it is an issue and do we need to restructure and do something different. This is a compromise. If the committee wants to leave the language as is, you can.

Rep. Paur: Using the state pool to determine how this works, how do we know if this isn't just a cause and effect? If we do this it doesn't mean that the settlements will go up.

Chairman Weisz: No and I didn't mean to give that impression. With client b we had agreed to settle for \$10,000 and then they got that lien and wouldn't settle. That is the information we can require that they give us to know. It is not like there is going to be hundreds of them. If you have 2-4 you might be lucky. We can sit down and say, can you show us that you couldn't settle it when they were agreed that they would settle for \$5,000 until they found out child support was going to garnish all of that. We can pull that information because it is a public entity.

Rep. Paur: In the testimony they said there was implication that when this law is passed that will move through the legal community pretty fast.

Chairman Weisz: That is what they are saying, but there is no evidence of it.

Rep. Paur: I move to adopt the amendments.

Rep. Schmidt: Second.

Rep. Louser: From a process standpoint if we were to adopt the amendments minus that last line. What is the process to do that?

Chairman Weisz: One you could withdraw this motion and then split the amendments in a motion or you can adopt these and further amendment.

Rep. Porter: I would be interested in hearing Rep. Louser's argument on what he is trying to do or what his actual concern is on that component.

Rep. Louser: I'm not totally convinced we are going to see the benefits as you mention. I'm not completely opposed to it so it is not an issue. I just wanted to know the process.

Chairman Weisz: Your potential concern is that we shouldn't just do the insurance fund? We should just mandate it for everyone or leave as voluntary?

Rep. Louser: If I had a concern it would be to leave it voluntary.

Rep. Paur: You didn't convince me of the value of the data we are going to acquire. I do agree that the pool should be made to work with the other agency.

Rep. Schmidt: It is a sad situation that they won't do it on their own. What I read into this is if they don't do it we have a hammer to hit them with.

Chairman Weisz: Currently I don't know how many subpoenas they have sitting up there at the reserve fund. They have to go through the whole process of serving the subpoenas and then the insurance reserve fund is spending our money to oppose the subpoena. We are paying both ends to fight each other. The insurance fund is self-funded, but all your political subdivisions and the state is paying the premium so it is our money. We will take up this motion.

Voice Vote: Motion Carried

Rep. Porter: On page 5 under section 6, subsection 3, it goes back to the mandate of the small business community and it talks about a report and a method that is approved by the department. The language concerns me on the way it reads if they choose some off the wall software kind of reporting mechanism that isn't current web based ease technology; so I can log onto their site and type in my employer ID number and pop up to my screen and add an employee with my information. To me I just don't like the way that it reads. On page 5, line 14-18 is the other new mandate. We could say, "Report new hires through a web based method approved by the department".

(After back and forth discussion between Rep. Porter and Chairman Weisz, the wording was decided on. It would read, "A web based method provided by the department.")

Rep. Porter: On page 4 the new language on 15 and 16, we have always had the discussion on the health insurance component and though, is that a proper report from a business back to this agency? I know why they want it and what they are doing with it. Is it our responsibility to do that and mandate that back onto the employer? Or is that something between the obligor, the oblige and the courts?

Chairman Weisz: Currently they are going to send you and you will have to fill out the information. When you do a new hire all you have to do is check if you have insurance or not. Say you have insurance and then depending upon the court order; then they will contact you and say are the kids covered? If you check no, you never have to fill anything out. It makes it easier up front otherwise you will have to send in the report anyway.

Rep. Porter: The question they are asking isn't if I am paying for the health insurance; it is asking whether I am offering the health insurance?

Chairman Weisz: The federal law requires if a an employer offers health insurance to employees; they have to cover the kids.

Rep. Porter: The question isn't if they pay for it, it is if it is offered as a group? The question is worded the same way the federal mandate requires it.

Chairman Weisz: You could play for a single plan for your employer, but offer a family plan if they pay for it. He has to take it to cover his kids.

Rep. Porter: That mandate has been in there a long time and we have never allowed them to follow it. Why are we suddenly allowing them?

Chairman Weisz: They have been following. If you send back a new hire, then they do a follow-up. If you check no then they don't have to do any follow-up.

Rep. Porter: I hope I never have to find out. I move to further amend SB 2258 on page 5, line 15 after the word "through" to insert the language, "a web based method provided" and overstrike the word "necessary" to that grammatically correct.

Rep. Anderson: Second.

Voice Vote: Motion Carried

Rep. Devlin: I move a Do Pass as amended on this bill.

Rep. Anderson: Second.

VOTE: 11 y 1 n 1 absent – Rep. Conklin

Bill Carrier: Rep. Weisz

PROPOSED AMENDMENTS TO SENATE BILL NO. 2258

Page 1, line 12, replace "an" with "more than four", and replace "order" with "orders"

Page 1, line 13, after the period insert "An income payer that employs more than twenty-four employees at any time and has received fewer than five income withholding orders under this section may choose to opt out of an electronic method approved by the child support agency only through a written request."

Page 3, line 12, remove the overstrike over "~~may~~" and remove "shall"

Page 3, line 13, after "designee" insert ", but a government self insurance pool shall exchange personal information about the claimant with the department."

Renumber accordingly

Date: 3-23-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2258

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Paur Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. CONKLIN		
VICE-CHAIR PIETSCH			REP. HOLMAN		
REP. ANDERSON			REP. KILICHOWSKI		
REP. DAMSCHEN					
REP. DEVLIN					
REP. HOFSTAD					
REP. LOUSER					
REP. PAUR					
REP. PORTER					
REP. SCHMIDT					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Motion Carried

March 23, 2011

VK
3/23/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2258

Page 1, line 12, replace the first "an" with "more than four"

Page 1, line 12, replace "order" with "orders"

Page 1, line 13, after the underscored period insert "An income payer that employs more than twenty-four employees at any time and has received fewer than five income withholding orders under this chapter may choose to opt out of an electronic method approved by the child support agency only through a written request."

Page 3, line 26, remove the overstrike over "may"

Page 3, line 26, remove "shall"

Page 3, line 27, after "designee" insert ", but a government self-insurance pool shall exchange personal information about the claimant with the department"

Page 5, line 15, replace "electronic" with "internet-based"

Page 5, line 15, replace "approved" with "provided"

Re-number accordingly

Date: 3-23-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2258

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Porter Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. CONKLIN		
VICE-CHAIR PIETSCH			REP. HOLMAN		
REP. ANDERSON			REP. KILICHOWSKI		
REP. DAMSCHEN					
REP. DEVLIN					
REP. HOFSTAD					
REP. LOUSER					
REP. PAUR					
REP. PORTER					
REP. SCHMIDT					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

motion carried

*a amend further
a web based method
provided by the department.*

Date: 3-23-11
Roll Call Vote # 5

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2258

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Devlin Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. CONKLIN	✓	
VICE-CHAIR PIETSCH	✓		REP. HOLMAN	✓	
REP. ANDERSON	✓		REP. KILICHOWSKI	✓	
REP. DAMSCHEN	✓				
REP. DEVLIN	✓				
REP. HOFSTAD	✓				
REP. LOUSER	✓				
REP. PAUR	✓				
REP. PORTER	✓	✓			
REP. SCHMIDT	✓				

Total (Yes) 11 No 1

Absent 1

Floor Assignment Rep. Weisz

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

REPORT OF STANDING COMMITTEE

SB 2258, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2258 was placed on the Sixth order on the calendar.

Page 1, line 12, replace the first "an" with "more than four"

Page 1, line 12, replace "order" with "orders"

Page 1, line 13, after the underscored period insert "An income payer that employs more than twenty-four employees at any time and has received fewer than five income withholding orders under this chapter may choose to opt out of an electronic method approved by the child support agency only through a written request."

Page 3, line 26, remove the overstrike over "may"

Page 3, line 26, remove "shall"

Page 3, line 27, after "designee" insert ", but a government self-insurance pool shall exchange personal information about the claimant with the department"

Page 5, line 15, replace "electronic" with "internet-based"

Page 5, line 15, replace "approved" with "provided"

Renumber accordingly

2011 TESTIMONY

SB 2258

1

Testimony
Senate Bill 2258 – Department Of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 26, 2011

Chairman Lee, members of the Senate Human Services Committee, I am James Fleming, Director of the Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of Senate Bill 2258.

Senate Bill 2258 reflects the recommendations of a task force that was convened under Section 18 of 2009 House Bill 1175. The Business Relations Task Force's final report is attached to my testimony.

I would like to begin by thanking Chairman Lee on behalf of the Department for her service on the Business Relations Task Force and Senators Lee and Dever for sponsoring this legislation to improve our operations.

It has been another successful biennium for the Department of Human Services and the Child Support Enforcement (CSE) program. In 2010, our program performance ranked second in the country, based in part on obtaining orders in 89.78% of our IV-D cases, collecting 74.21% of current support in the month in which it is due, and making a collection toward delinquent support in 68.7% of the cases in which there was an arrearage. Our collection rates have allowed for the unpaid balance of arrears in IV-D cases, including interest, to decline from \$224.8 million in 2008 to \$223.54 million in 2010. With the nonIV-D receivables added, the statewide total at the end of 2010 was \$285 million.

Total collections have risen from \$122,734,000 in 2008 to \$123,420,000 in 2009 to a new record of \$128,974,000 in 2010. Roughly 90% of our annual collections are paid to families, with the balance sent to another jurisdiction for further distribution or retained to reimburse the taxpayers for expenditures from the TANF and Foster Care programs.

However, there is still more work to do. At the end of December 2010, we were trying to find an address, employer, or asset for 4,020 parents in our caseload. Obtaining these pieces of information is critical to requesting a court order for child support at an appropriate level and enforcing the order.

For comparison, at the end of the federal fiscal year, we had roughly 2,000 children in our caseload needing paternity to be established (out of 26,305 children in the IV-D caseload who were born out of wedlock); 3,786 court orders to establish (out of a total IV-D caseload of 37,030); and 9,138 cases with arrears in which there was no payment in the last year (out of a total IV-D arrears caseload of 29,191). There is an unmistakable correlation between locating parents and their employers or assets and improving our program performance from our current levels.

Given the work yet to do, several provisions in Senate Bill 2258 would be very helpful, either to improve our program's access to information or to create internal efficiencies.

I would now like to highlight some of the provisions in the attached task force final report.

With the report as background, I will summarize the sections of the bill into subject areas.

Electronic New Hire Reports and Payments (Sections 1 and 7)

Following the precedent set in the past two legislative sessions regarding reports filed by employers with Job Service North Dakota, the task force recommends mandating electronic filing and payment of funds for employers of more than twenty-four employees. The legislation also borrows from existing law regarding the state tax department and gives CSE the authority to waive the electronic filing requirement if the employer can show "good cause" for why electronic filing is not feasible for the employer.

Insurance Matching – Phase One (Section 2)

Last session, when a mandatory match was being considered, many questions were raised about the meaning of certain words or phrases in the proposed language and how the process would work. In response, the task force recommends the changes in Section 2 of the bill. In particular, the amendments would give greater flexibility to the insurance agency and CSE to determine the best time to notify the claimant of the lien.

Another area that generated significant discussion is whether the data match needs to include a person's social security number. This is an area where privacy has to be balanced with the risk of mistaken identity. In the end, a match under the bill can be based on a person's name, date of birth, and one of three alternative pieces of additional information: social

security number, the last four digits of a social security number, or a North Dakota-issued motor vehicle operator number. This is not as straightforward a match as the full social security number, but CSE feels we can make it work.

Insurance matching of this type is occurring across the country, and CSE currently has arrangements in place with the multi-state Child Support Lien Network and a match process sponsored by the federal Office of Child Support Enforcement.

Because these amendments would improve the existing process and clarify current law, Section 2 is the only section of the bill that would be effective on August 1, 2011.

Insurance Matching – Phase Two (Sections 3, 4, and 17)

A majority of the task force recommends that the insurance match become mandatory on August 1, 2013. CSE would prefer an earlier effective date, but the delay will help give sufficient time for CSE and the insurance industry to work together toward a smooth implementation of the law. As part of the mandatory match, the bill adds a deadline for submitting personal information about a claimant, a method for enforcing the requirement against a reluctant insurance company (similar to employers and income withholding), and a sanction for a claimant who refuses to provide his or her personal information.

New Hire Reporting of Independent Contractors (Section 5, 6, and 8)

In many cases, independent contractors provide services to an employer on an ongoing basis that are very similar to the services provided by employees. Both can be subject to an income withholding order; however, CSE may not learn of an independent contractor because the current new hire reporting requirements are limited to employees. A majority of the task force recommends this be changed.

Neither an employer nor CSE are well-served by reports of new hires that do not lead to locating a parent or identifying sources of income to an obligor. Thus, the type of independent contractors who must be reported is very limited:

1. An individual, or organization owned exclusively by an individual, who provides services (as opposed to goods);
2. The services are provided in the employer's trade or business;
3. Aggregate payment is sufficient for the employer to be required to file an IRS 1099-MISC or similar form;
4. Services which are NOT provided on an emergency basis; and
5. Services which are expected to be provided on a recurring basis.

All five elements above must exist before an employer is required to report an independent contractor. This change would not be effective until January 1, 2012.

New Hire Reporting of Health Insurance Information (Section 6)

Our medical support program requirements are in a state of flux based on federal health care reform and a regulation that was issued before the federal law was passed. However, our present program requirements include a requirement to identify health insurance that is available to the child. Today, when we receive a report of a new hire and the employee is a parent with a child support case, CSE follows up with the employer to determine whether health coverage is available.

Under the task force proposal, the communication with the employer can be avoided, and the time spared, if the new hire report includes an indication whether health insurance is offered to the employee or contractor. If the indication is "no," then no further contact is needed. If the indication is "yes," then CSE can work with the employer to determine the terms and conditions of the coverage. This change would not be effective until January 1, 2012.

Child Support Lien Registry (Sections 9 through 16)

As mentioned in the task force report, the current lien process on real and personal property for child support arrears is not ideal, because arrears balances can change and CSE will not always know the location of the obligor's property.

The task force recommends the creation of a Web-based lien registry, similar to the registry offered in Wisconsin. The lien registry would be available to the public and support a search by last name and other

information (including social security number) provided by the person using the Web site.



Lien Docket
Search by Name

Last Name: (required)
First Name:
Middle Name:
Date of Birth: / / (mm/dd/ccyy or ccyy)
SSN: (Last 4 digits)

[Return to Main Search Page](#) | [Search by Lien Docket Number](#) | [Help](#)

If there is no match, the Web site provides a response that can be printed to show that the search occurred:



Lien Docket
Lien Docket Search Results

Lien Docket Information as of 1/25/2011 10:44:24 AM

Your search returned 0 record(s).

A Participant matching your search criteria was not found. You may want to broaden your search to ensure that you have not eliminated a potential match.

Current Search Criteria: Last Name=Fleming, First Name=James

[Return to Main Search Page](#) | [Help](#)

In the event of a match, the registry would list the obligor's first and last name, date of birth, and amount of arrears.



Lien Docket
Lien Docket Search Results
Lien Docket Information as of 1/25/2011 9:57:23 AM

Your search returned 1 record(s).

[Narrow Search](#)

Name	Date of Birth	Docket #
FLEMING, JIMMY L	12/25/1979	185544

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The registry would also provide information regarding the child support office that needs to be contacted for further information.



Lien Docket
Lien Docket Detail
Lien Docket Information as of 1/25/2011 9:58:44 AM

Name:	FLEMING, JIMMY L	Lien Amount:	\$17,827.60
Date of Birth:	12/25/1979	End Date:	N/A
		End Reason:	N/A
Docket #:	185544		
Filing Date:	08/06/2006		
Child Support Agencies with Lien:	Brown	Contact Child Support Agency:	Brown
		Contact CSA List Link	

[Return to Search Results](#)

[Search by Lien Docket Number](#) | [Search by Name](#) | [Help](#)

Under the bill, a lien arises by operation of law on all the obligor's real and titled personal property in North Dakota, regardless of the county in which the property is located. As an arrears balance grows, so too does

the amount of the lien. Combined with the search features on the Web site, this will be a powerful tool for collecting additional child support. This change would not be effective until January 1, 2012.

Madame Chairman and members of the committee, this concludes my overview of the task force work and Senate Bill 2258, and I would be glad to answer any questions the committee may have.

Final Report

Child Support Enforcement Business Relations Task Force June 10, 2010

As required in 2009 House Bill 1175, a task force was convened by the Department of Human Services to study the interaction of the business community and the child support enforcement program.

The study must include strategies for encouraging voluntary participation in electronic data matches, the feasibility and desirability of mandatory data matches or mandatory electronic transfer of information, the identification of potential sources of income and asset information regarding child support obligors, the creation of a lien registry for property owned by a delinquent child support obligor, and the development of procedures for conducting data matches that are secure and limited to the information needed to assist in the establishment and enforcement of child support and medical support orders.

2009 House Bill 1175, § 18.

This report contains the Task Force's findings and recommendations, and implementing legislation, for presentation by the Department of Human Services to the 2011 Legislative Assembly.

Summary of Recommendations

- The Task Force recommends that the Department of Human Services continue to work to improve communication with, and assistance to, the business community.
- The Task Force recommends that the Department of Human Services increase its efforts to enter into data match agreements with the business community.
- The Task Force recommends the enactment of certain legislation intending to increase the amount of information exchanged between business and Child Support Enforcement and to improve the process through which the information is exchanged. Areas addressed in the proposed legislation include a lien registry, insurance matching, electronic remittal of funds withheld under income withholding orders, electronic reporting of new hires, and reporting of independent contractors who provide personal services on a recurring basis.

Background

The success of the services provided to children, families, and taxpayers by the Child Support Enforcement program (CSE) in the Department of Human Services depends heavily on the support of the business community. In order to successfully establish and enforce paternity and child support orders, CSE needs to know where parents are living and working. In addition, several industries commonly hold assets on behalf of, or owe money to, parents who owe child support.

In various forms during the 2009 Legislative Session, House Bill 1175 included proposals that expanded the interaction of CSE and the business community. Representatives of the business community testified regarding the legislation with questions or concerns. As a result, Section 18 of HB 1175, as enacted, directed the Department of Human Services to invite representatives from the financial, insurance, employer, public utility, and business communities to participate on the Task Force and study the interaction of CSE and the business community. The goal was to facilitate a discussion of the common good served by CSE and ways that the business community can support CSE without unduly interfering with existing business practices.

Purpose of Study

Goal. The goal of studying the interaction of the business community and CSE is to improve and expand existing business practices so CSE is provided more information regarding parents without unduly adding to the burden on the business community of providing information to CSE.

Objective. The objective is to examine the instances where the business community and CSE currently interact, or potential new areas of interaction, and determine the method(s) of communicating information that strike the optimum balance of the amount of resources required from the business community to provide information to CSE and the value of the information to best meet the needs of children, families, and taxpayers.

Success. The success of the recommendations will be measured by the number of missing parents who are located, the number of new employees that are identified, a reduction in the delay and errors in the current process for providing new hire information or remitting funds, and the number of cases with a collection of child support that can be attributed to increased matching of information.

Justification. Just as it takes a community to raise a child, a parent's failure to support a child can have a negative impact on the community. Examples include poor performance in school, increased juvenile delinquency, increased likelihood of health problems, and increased reliance on public assistance programs. In one form or the other, a parent's failure to support a child leads to increased costs to the public at large and greater burden on taxpayers, and thus the CSE program was created to establish and enforce child support orders.

Although mandates on the business community usually result in costs that are passed through to customers, industry-wide mandates should result in a comparable cost being borne by all

members of the public. The savings to the public from the mandates will come from improved support of children and avoidance of the problems identified in the paragraph above.

Initial Expectations. Several of the Task Force recommendations pertain to the operation of CSE within its existing statutory authority, and should immediately improve the quantity and quality of information that is provided to CSE and act as a catalyst for additional case activity. The remaining recommendations pertain to legislation that, if enacted, will generally not become effective until 2012 (August 2013 in the case of mandatory insurance matching). This will give the business community valuable time to anticipate any changes to existing business practices. Based on data compiled as of September 30, 2014, which is the close of the second federal fiscal year after the recommended laws go into effect, one would expect an increase in the number of orders established, percentage of current support collected, the number of cases with a collection on arrears, and CSE's cost-benefit ratio.

Findings

- A significant number of child support obligors are not forthcoming with CSE regarding their address, employer, or assets, which requires CSE to search for that information from other sources.
- New hire reporting and income withholding are federal mandates and widely-accepted responsibilities of all employers.
- There is still significant room for improvement in the percentage of new hires that are reported to CSE.
- Income withholding is effective and generally honored by employers.
- Electronic reporting of new hires and remittal of funds is more efficient and less prone to error.
- The ability of a business to maintain its own profile on the CSE website would reduce the need for case-specific inquiries to the business and save time.
- Government entities should be expected to provide the same amount of information as private business, if not more.
- A business that chooses to cooperate with CSE in a greater manner than its competitors may find itself at a competitive disadvantage, compared to industry-wide mandates that create a level playing field for all businesses in a given industry.
- A business should not be exposed to an increased chance of litigation as a result of cooperating with CSE and honoring its directives.
- The reimbursement provided to the business community for cooperating with CSE rarely covers the actual costs to the business community, and thus satisfies a cost-benefit

analysis only after the value of the information to the public is added to the analysis and the exchange process is made as efficient as possible.

- The existing county-by-county docketing process to obtain a judgment lien on real property is not efficient for CSE because arrears balances regularly change and the location of the obligor's interests in real property is not always known.
- The use of child support liens on personal property should not unduly impair commerce or harm innocent third parties.
- Computerized data matching has great potential for identifying parents in CSE cases with a minimum of effort, particularly when one considers the large number of parents in North Dakota with child support cases.
- Insurance matching must be conducted carefully to avoid changes in the claims process that lead to significant statewide increases in insurance premiums.

Recommendations

The Task Force recommends that the Department of Human Services:

- Continue to review and expand its outreach to the employer community regarding new hire reporting requirements;
- Develop a functionality on the Department's website for business to maintain a profile that contains helpful information regarding the business, its payroll cycle and benefits, and any health insurance benefits offered by the business; and
- Increase its pursuit of data match agreements or subpoenas with public utilities and other businesses and sources of information.

The Task Force also recommends that legislation be enacted to:

- Follow the precedent of Job Service North Dakota and require employers of more than 24 employees to use electronic methods to report new hires and remit money that has been withheld pursuant to income withholding orders;
- Require new hire reporting of independent contractors who provide recurring services similar to those provided by employees and for which an IRS 1099-MISC form must be filed;
- Create a lien registry, patterned after the Wisconsin lien docket, which creates liens by operation of law on all real and titled personal property, and operates in a way that does not conflict with standard business practices that currently exist.

- Make improvements to the existing voluntary insurance matching process, and require matching of insurance claims with child support obligors effective August 1, 2013.

Areas Lacking Consensus

In the course of the Task Force's discussions and consideration of bill drafts, there were some areas in which consensus could not be reached that need to be addressed in this report.

The legislation requiring new hire reporting of independent contractors was supported by a majority, but not all, of the task force members.

By a narrow vote, a proposal to increase the compensation to financial institutions for participating in the data match process was not recommended. Those in favor of the proposal argued that the cost of the data match greatly exceeded the \$25 per quarter that is currently offered by the Department. Those against the proposal generally felt that participating in the data match is an industry-wide expectation for which additional compensation should not be provided, given the competing demands for state general funds.

Each Task Force meeting included considerable discussion on whether to mandate insurance matching, or retain the voluntary process in current law. The Task Force members on both sides of the question worked cooperatively to draft a mandatory bill that was as clear as possible. In the end, the final decision of the Task Force was to recommend certain improvements in the existing voluntary match process that would become effective on August 1, 2011, and to require insurance matching with an effective date that is delayed until after the 2013 Legislative Session (August 1, 2013).

Conclusion

Information regarding parents, their employers, and their assets can be possessed by a multitude of businesses or entities that may not even be aware of the value of the information to CSE. CSE must remain active in communicating with the business community and exploring new sources of information, while recognizing that there are times when the aggregate cost to the business community of providing information will exceed the benefit of the information unless an efficient method of exchanging information can be created. Thus, in the future, CSE's attention should remain not only on identifying new sources of information, but also working on methods of exchanging information that are efficient and minimize the burden on the business community.

9595

VOID CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.		1 Rents		OMB No. 1545-0115	
		\$		2011	
		2 Royalties			
PAYER'S federal identification number		3 Other income		4 Federal income tax withheld	
		\$		\$	
RECIPIENT'S identification number		5 Fishing boat proceeds		6 Medical and health care payments	
RECIPIENT'S name		\$		\$	
		7 Nonemployee compensation		8 Substitute payments in lieu of dividends or interest	
Street address (including apt. no.)		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>		10 Crop insurance proceeds	
City, state, and ZIP code		11		12	
Account number (see instructions)		2nd TIN not <input type="checkbox"/>		13 Excess golden parachute payments	
\$		\$		\$	
15a Section 409A deferrals		15b Section 409A income		16 State tax withheld	
\$		\$		\$	
				17 State/Payer's state no.	
				\$	
				18 State income	
				\$	

Miscellaneous Income

Copy A
For Internal Revenue Service Center
File with Form 1096.

For Privacy Act and Paperwork Reduction Act Notice, see the **2011 General Instructions for Certain Information Returns.**

Form **1099-MISC**

Cat. No. 14425J

Department of the Treasury - Internal Revenue Service

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#2

Testimony on Senate Bill 2258

Senate Human Services committee 1/26/11

Madam chair and members of the committee I'm Dan Ulmer representing Blue Cross Blue Shield of North Dakota and we oppose the changes to statute reflected in sections 5, 6, possibly 7, and 8 of this bill.

We are not experts in the area of child support collection issues but we do supply the state enforcement unit with massive amounts of data that we assume is used in making sure that those obligated to pay child support pay their support.

We find sections 5, 6, possibly 7, and 8 to be rather onerous in that it seems to create a significant hassle factor by mandating that we report all of the self employed sole proprietors that we contract with. Our inquiry on this issue seems to indicate that we likely have 100's of these contractors that we employ each year.

The tasks that this bill is asking us to do is fairly labor intensive as we would have to inquire to each of the contractors we hire (there are thousands of those from Microsoft to Unisys to Pop's lawn service) as to whether or not they are a self employed sole proprietorship prior to contracting with the contractors envisioned in this bill. And if that contractor met that standard we would then have to do the reporting required in this bill. Why is it the requirement that every employer has to ensure that others are complying with an existing law? In this case it would only be required of us for the self-employed contractor. As a result we have to inquire if this contractor is an "organization owned exclusively by an individual".

We hope that the committee is willing to remove sections 5, 6, possibly 7, and 8 from this bill. If not then we suggest that the bill be amended to change the contractor to an employer as indeed the contractor may be a sole proprietor with one employee...i.e. the owner.

If the committee prefers this route then we'd offer the following amendments:

Let me address Section 7 first. The reason I stated "possibly 7" is that we are unsure exactly what the proposed changes will be. It is all left up the department. Depending upon what they propose, it may or may not be acceptable. We are somewhat uncomfortable with the ambiguous language within this section such as "electronic method approved by the department" and that the report "must be made on a form prescribed by the state directory of new hires". Note that they took away flexibility here when it stated "W-4 form, or, at the option of the employer, an equivalent form". So in summary, depending upon what is decided, we may or may not oppose the department's proposal.

On Pg 4 line 27 remove the overstrike from 'an entity or individual'

On pg 4 line 27 delete the phrase 'A person'

On pg 5 line 1 replace 'A person who hires a contractor.' with "A person who is a contractor."

On pg 5 line 13 remove 'or contractor'

On pg 5 line 17 remove 'or contractors'

On pg 5 line 19 remove 'or contractors'

On pg 5 line 27 remove 'or'

On pg 5 line 28 remove 'contractor'

On pg 6 delete lines 1 through 3.

On pg 6 line 21 remove "or contractor"

The essence of our amendments would make a contractor an employer and therefore require them to do their own reporting. Members of the committee, we fail to appreciate why we should be responsible for reporting income that other folks are required to report and thus the gist of our testimony...

Thanks for your consideration and I'm willing to try to answer whatever questions you may have

Dan Ulmer AVP Government Relations BCBSND

#3



Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
SB 2258
January 20, 2011

Madame Chair and members of the committee, My name is Bill Shalhoob and I am here today representing the North Dakota Chamber of Commerce, the principal business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors bureaus and public sector organizations. For purposes of this hearing we are also representing five local chambers with over 5,000 members. As a group we stand in opposition to SB 2258 and urge it do not pass from the committee on this bill unless amended.

Specifically the business community objects to the sections requiring organizations to report 1099 information to the Department of Human Services. There is a cost to gather and transmit this information and the language detailing what is required is unclear. As we read the bill it requires us to forward a 1099 for each vendor that is owned solely by an individual, not each one person shop as is envisioned by the department. In that case it would require business to further differentiate vendors from what is now ordinary business practice. The 1099 process is cumbersome, does not work on the federal level and in fact is under consideration for elimination. We also question the requirement in Section 6 regarding reporting new hires to DHS. There are approximately 320,000 workers in North Dakota. Assuming a very modest 20% turnover rate that could mean employers will be forwarding up to 64,000 names to review (We understand this number would be mitigated by the 24 employee threshold). The point in both cases is how is the department going to manage this volume of raw data it will be accumulating? We question the cost/benefit ratio both for the reporting businesses and the agency.

We do understand the need to collect these funds. We know if they are not collected it will cost all of the taxpayers of North Dakota in support to make up for a parent not fulfilling their legal obligation. We hope the committee and agency will find a solution that would be more efficient and less costly to the business community.

Thank you for the opportunity to appear before you today in opposition to portions of SB 2258. I would be happy to answer any questions.

THE VOICE OF NORTH DAKOTA BUSINESS

SENATE BILL NO. 2258

My name is Dale Haake, I am the Director of Casualty Claims for Nodak Mutual Insurance, whom I also represent. I had the pleasure of participating in the task force which helped draft this bill, and I am here to testify on several parts of it.

The amendments in Section 2 are the result of much discussion over the actual process of handling claims involving a child support lien. I am quite pleased with what was accomplished, and I feel that, if passed, the process will be smoother and allow greater control of the situation by the insurance carrier.

Where I do have concern is Sections 3 and 4, which are to become effective on August 1, 2013. These sections make the data match for an insurance company mandatory. My company currently participates in the data match on a voluntary basis. We have been participating for approximately four years, and during that time we have had, to the best of my knowledge, four matches. Of those four matches, two were very small liens and the people involved accepted the matter very nicely and the liens were honored without incident. The other two cases were very different.

One ultimately did settle, but not before additional defense expenses were

incurred which approached the amount of child support actually owed. The other case involves a minor injury to a person who owes a significant amount of child support. As settling for a reasonable sum commensurate with his injury would leave him nothing, he has determined to take the matter through to a jury verdict in the hopes of getting a "runaway" verdict. This has resulted in not only a great deal of defense costs, but also has involved my insured in a law suit which he might otherwise not have been involved in.

While an insurance company stands the risk of increased expenses, there is another risk that is of far greater concern. That is the risk to my insured, the person actually being sued. Making the data match mandatory will cause some claims to go into suit which may well have otherwise been resolved through negotiation. The involvement in these suits could easily affect my insured's credit, having negative effect on the ability to secure business loans, home mortgages, or other forms of credit. Further, and even more serious, is the increased chance for cases which might otherwise settle to go to trial and result in an award in excess of the amount of insurance coverage available. The responsibility to pay the award which is in excess of the coverage falls upon my insured, a person who has absolutely nothing to do with the child support lien.

Please note that this bill seeks information from many sources, with insurance settlements being only one of them. However, the distinction between the other sources and insurance is that each of the other sources deal with the personal assets of the person owing the child support, while the insurance match has a direct effect on my insured, a person who has nothing to do with the unpaid child support, yet faces added personal exposure because of it.

While we all wish to see the back child support paid, it strikes me as grossly unfair to place my insured under a risk of personal exposure for something he or she has absolutely nothing to do with. Yet that is what can happen by making the data match for insurance claims mandatory. I therefore ask that Sections 3 and 4 making participation mandatory be removed and that the system remain on a voluntary participation basis.

#5

TESTIMONY OF STEVEN SPILDE
CEO, NORTH DAKOTA INSURANCE RESERVE FUND

to the
NORTH DAKOTA SENATE HUMAN SERVICES COMMITTEE

REGARDING SENATE BILL NO. 2258

January 26, 2011

Chairperson Lee and Members of the Senate Human Services Committee, my name is Steve Spilde. I am the Chief Executive Officer of the North Dakota Insurance Reserve Fund ("NDIRF"), a government self-insurance pool that provides property/casualty coverage for most political subdivisions in North Dakota, and I appear today in **opposition** to portions of Sections 2 and 17; and all of Sections 3 and 4 of SB 2258. Amendments are respectfully submitted with regard to those sections of the bill.

The amendments are basically intended to preserve the voluntary nature of any data matching between insurers and the department, as both are defined respectively in Section 2 of SB 2258.

The NDIRF has no argument with most of the new language proposed to be added to section 26.1-02-28 NDCC by Section 2 of SB 2258. Although we feel it is not a best practice for the NDIRF to have liens interfere with resolution of a claim, an insurer certainly should be free to choose to do so. We do not understand the rationale for subsection 7 on page 3 of SB 2258, however, and therefore urge that it be removed as it could be interpreted to implicitly subject a government self-insurance pool to the provisions of section 50-09-08.2 NDCC if it did not voluntarily participate in a data match under section 26.1-02-28.

The suggested amendments would also remove Sections 3 and 4 and the last sentence of Section 17 of SB 2258, as those sections would impose a mandatory data match as of August 1, 2013. Additionally, with regard to the second paragraph of Section 4, we consider such a penalty provision unduly severe - any failure of an insurer's employee to comply with a mandatory data match would simply be clerical error and should not subject an individual to payment of a potentially large sum.

Thank you for your consideration. I would be pleased to respond to any questions.

January 26, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2258

Page 1, line 1, after "chapter 14-09," remove "two new subsections to"

Page 1, line 2, remove "section 26.1-02-28,"

Page 3, remove lines 18, 19 and 22 through 30

Page 4, remove lines 1 through 9

Page 17, line 21, after "January 1, 2012." remove the last sentence.

Renumber accordingly

#6

T E S T

North Dakota

nd.gov Official Portal for North Dakota State Government



North Dakota Department of Human Services

New Hire Online Child Support Enforcement



Employee Information

Employee Information

To add an employee, fill out the information below and click the "Submit" button.

Employer: 12-3456789 TEST UPDATE 014

Social Security No:*

Last Name*, First*, MI:

Address 1:*

Address 2:

Address 3:

City, State, Zip:* NORTH DAKOTA (55555 or 555554444)

Country:* UNITED STATES

Date of Birth: (mm/dd/yyyy)

Date of Hire: (mm/dd/yyyy)

State of Hire: NORTH DAKOTA

Done and Exit Clear Submit

(* required field)

You have entered 0 record(s).

Contact Us

Disclaimer

Privacy Policy

Security Policy

We use Secure Sockets Layer (SSL) encryption technology to ensure your information is secure and protected.

Will open a new window (pop-up).

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Jim Fleming
2-15-2011

#7

DRAFT
02/16/11

Summary of Amendment: Remove proposed law changes requiring new hire reporting of independent contractors.

PROPOSED AMENDMENTS TO SENATE Bill NO. 2258

Page 1, line 3, remove "34-15-01,"

Page 1, line 4, remove the first "and" and remove "subsection 3 of section 34-15-05, sections"

Page 4, remove lines 10 through 30

Page 5, remove lines 1 through 7

Page 5, line 13, remove "or contractor"

Page 5, line 14, after "insurance" insert "to the employee"

Page 5, line 17, remove "or contractors" and remove "or hired"

Page 5, line 19, remove "or contractors"

Page 5, line 27, remove "or"

Page 5, line 28, remove "contractor"

Page 6, remove lines 1 through 3

Page 6, line 7, remove the overstrike over "W-4 form" and remove the overstrike over "or"

Page 6, line 8, remove the overstrike over "an equivalent"

Page 6, remove lines 19 through 24

Page 8, line 20, after the underscored comma insert "was"

Page 10, line 17, replace "10" with "8"

Page 10, line 18, replace "10" with "8"

Page 10, line 20, replace "16" with "14"

Renumber accordingly

Testimony
Engrossed Senate Bill 2258 – Department Of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
March 7, 2011

Chairman Weisz, members of the House Human Services Committee, I am Jim Fleming, Director of the Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of Senate Bill 2258.

Senate Bill 2258 reflects the recommendations of a task force that was convened under Section 18 of 2009 House Bill 1175. The Business Relations Task Force's final report is attached to my testimony.

I would like to begin by thanking Chairman Weisz and Representative Devlin on behalf of the Department for their service on the Business Relations Task Force and for sponsoring this legislation to improve our operations.

It has been another successful biennium for the Department of Human Services and the Child Support Enforcement (CSE) program. In 2010, our program performance ranked second in the country, based in part on obtaining orders in 89.78% of our IV-D cases, collecting 74.21% of current support in the month in which it is due, and making a collection toward delinquent support in 68.7% of the cases in which there was an arrearage. Our collection rates have allowed for the unpaid balance of arrears in IV-D cases, including interest, to decline from \$224.8 million in 2008 to \$223.54 million in 2010. With the nonIV-D receivables added, the statewide total at the end of 2010 was \$285 million.

Total collections have risen from \$122,734,000 in 2008 to \$123,420,000 in 2009 to a new record of \$128,974,000 in 2010. Roughly 90% of our annual collections are paid to families, with the balance sent to another jurisdiction for further distribution or retained to reimburse the taxpayers for expenditures from the TANF and Foster Care programs.

However, there is still more work to do. At the end of December 2010, we were trying to find an address, employer, or asset for 4,020 parents in our caseload. Obtaining these pieces of information is critical to requesting a court order for child support at an appropriate level and enforcing the order.

For comparison, at the end of the federal fiscal year, we had roughly 2,000 children in our caseload needing paternity to be established (out of 26,305 children in the IV-D caseload who were born out of wedlock); 3,786 court orders to establish (out of a total IV-D caseload of 37,030); and 9,138 cases with arrears in which there was no payment in the last year (out of a total IV-D arrears caseload of 29,191). There is an unmistakable correlation between locating parents and their employers or assets and improving our program performance from our current levels.

Given the work yet to do, several provisions in Engrossed Senate Bill 2258 would be very helpful, either to improve our program's access to information or to create internal efficiencies.

I would now like to highlight some of the provisions in the attached task force final report. It is important to note that the engrossed bill differs slightly from the task force recommendation as a result of Senate

amendments to remove the extension of new hire reporting requirements to independent contractors.

With the report as background, I will summarize the sections of the bill into subject areas.

Read through report

Electronic New Hire Reports and Payments (Sections 1 and 6)

Following the precedent set in the past two legislative sessions regarding reports filed by employers with Job Service North Dakota, the task force recommends mandating electronic filing and payment of funds for employers of more than twenty-four employees. The legislation also borrows from existing law regarding the state tax department and gives CSE the authority to waive the electronic filing requirement if the employer can show "good cause" for why electronic filing is not feasible for the employer.

Insurance Matching – Phase One (Section 2)

Last session, when a mandatory match was being considered, many questions were raised about the meaning of certain words or phrases in the proposed language and how the process would work. In response, the task force recommends the changes in Section 2 of the bill. In particular, the amendments would give greater flexibility to the insurance agency and CSE to determine the best time to notify the claimant of the lien.

Another area that generated significant discussion is whether the data match needs to include a person's social security number. This is an area

where privacy has to be balanced with the risk of mistaken identity. In the end, a match under the bill can be based on a person's name, date of birth, and one of three alternative pieces of additional information: social security number, the last four digits of a social security number, or a North Dakota-issued motor vehicle operator number. This is not as straightforward a match as the full social security number, but CSE feels we can make it work.

Insurance matching of this type is occurring across the country, and CSE currently has arrangements in place with the multi-state Child Support Lien Network and a match process sponsored by the federal Office of Child Support Enforcement.

Because these amendments would improve the existing process and clarify current law, Section 2 is the only section of the bill that would be effective on August 1, 2011.

Insurance Matching – Phase Two (Sections 3, 4, and 15)

A majority of the task force recommends that the insurance match become mandatory on August 1, 2013. CSE would prefer an earlier effective date, but the delay will help give sufficient time for CSE and the insurance industry to work together toward a smooth implementation of the law. As part of the mandatory match, the bill adds a deadline for submitting personal information about a claimant, a method for enforcing the requirement against a reluctant insurance company (similar to employers and income withholding), and a sanction for a claimant who refuses to provide his or her personal information.

New Hire Reporting of Health Insurance Information (Section 5)

Our medical support program requirements are in a state of flux based on federal health care reform and a regulation that was issued before the federal law was passed. However, our present program requirements include a requirement to identify health insurance that is available to the child. Today, when we receive a report of a new hire and the employee is a parent with a child support case, CSE follows up with the employer to determine whether health coverage is available.

Under the task force proposal, the communication with the employer can be avoided, and the time spared, if the new hire report includes an indication whether health insurance is offered to the employee. If the indication is "no," then no further contact is needed. If the indication is "yes," then CSE can work with the employer to determine the terms and conditions of the coverage. This change would not be effective until January 1, 2012.

Child Support Lien Registry (Sections 7 through 14)

As mentioned in the task force report, the current lien process on real and personal property for child support arrears is not ideal, because arrears balances can change and CSE will not always know the location of the obligor's property.

The task force recommends the creation of a Web-based lien registry, similar to the registry offered in Wisconsin. The lien registry would be available to the public and support a search by last name and other

information (including social security number) provided by the person using the Web site.



Wisconsin Department of Children & Families
Protecting Children. Strengthening Families. Building Communities.

Lien Docket
Search by Name

Last Name: (required)

First Name:

Middle Name:

Date of Birth: / / (mm/dd/ccyy or ccyy)

SSN: (Last 4 digits)

[Return to Main Search Page](#) | [Search by Lien Docket Number](#) | [Help](#)

If there is no match, the Web site provides a response that can be printed to show that the search occurred:



Wisconsin Department of Children & Families
Protecting Children. Strengthening Families. Building Communities.

Lien Docket
Lien Docket Search Results

Lien Docket information as of 1/25/2011 10:44:24 AM

Your search returned 0 record(s).

A Participant matching your search criteria was not found. You may want to broaden your search to ensure that you have not eliminated a potential match.

Current Search Criteria: Last Name=Fleming, First Name=James

[Return to Main Search Page](#) | [Help](#)

In the event of a match, the registry would list the obligor's first and last name, date of birth, and amount of arrears.



Lien Docket

Lien Docket Search Results

Lien Docket Information as of 1/25/2011 9:57:23 AM

Your search returned 1 record(s).

[Narrow Search](#)

Name	Date of Birth	Docket #
FLEMING, JIMMY L	12/25/1979	185544

[Return to Main Search Page](#) | [Help](#)

The registry would also provide information regarding the child support office that needs to be contacted for further information.



Lien Docket

Lien Docket Detail

Lien Docket information as of 1/25/2011 9:58:44 AM

Name:	FLEMING, JIMMY L	Lien Amount:	\$17,827.60
Date of Birth:	12/25/1979	End Date:	N/A
		End Reason:	N/A
Docket #:	185544		
Filing Date:	08/06/2006		
Child Support Agencies with Lien:	Brown	Contact Child Support Agency:	Brown
		Contact CSA List Link	

[Return to Search Results](#)

[Search by Lien Docket Number](#) | [Search by Name](#) | [Help](#)

Under the bill, a lien arises by operation of law on all the obligor's real and titled personal property in North Dakota, regardless of the county in which the property is located. As an arrears balance grows, so too does

the amount of the lien. Combined with the search features on the Web site, this will be a powerful tool for collecting additional child support. This change would not be effective until January 1, 2012.

Mr. Chairman and members of the committee, this concludes my overview of the task force work and Engrossed Senate Bill 2258, and I would be glad to answer any questions the committee may have.

Final Report

Child Support Enforcement Business Relations Task Force June 10, 2010

As required in 2009 House Bill 1175, a task force was convened by the Department of Human Services to study the interaction of the business community and the child support enforcement program.

The study must include strategies for encouraging voluntary participation in electronic data matches, the feasibility and desirability of mandatory data matches or mandatory electronic transfer of information, the identification of potential sources of income and asset information regarding child support obligors, the creation of a lien registry for property owned by a delinquent child support obligor, and the development of procedures for conducting data matches that are secure and limited to the information needed to assist in the establishment and enforcement of child support and medical support orders.

2009 House Bill 1175, § 18.

This report contains the Task Force's findings and recommendations, and implementing legislation, for presentation by the Department of Human Services to the 2011 Legislative Assembly.

Summary of Recommendations

- The Task Force recommends that the Department of Human Services continue to work to improve communication with, and assistance to, the business community.
- The Task Force recommends that the Department of Human Services increase its efforts to enter into data match agreements with the business community.
- The Task Force recommends the enactment of certain legislation intending to increase the amount of information exchanged between business and Child Support Enforcement and to improve the process through which the information is exchanged. Areas addressed in the proposed legislation include a lien registry, insurance matching, electronic remittal of funds withheld under income withholding orders, electronic reporting of new hires, and reporting of independent contractors who provide personal services on a recurring basis.

Background

The success of the services provided to children, families, and taxpayers by the Child Support Enforcement program (CSE) in the Department of Human Services depends heavily on the support of the business community. In order to successfully establish and enforce paternity and child support orders, CSE needs to know where parents are living and working. In addition, several industries commonly hold assets on behalf of, or owe money to, parents who owe child support.

In various forms during the 2009 Legislative Session, House Bill 1175 included proposals that expanded the interaction of CSE and the business community. Representatives of the business community testified regarding the legislation with questions or concerns. As a result, Section 18 of HB 1175, as enacted, directed the Department of Human Services to invite representatives from the financial, insurance, employer, public utility, and business communities to participate on the Task Force and study the interaction of CSE and the business community. The goal was to facilitate a discussion of the common good served by CSE and ways that the business community can support CSE without unduly interfering with existing business practices.

Purpose of Study

Goal. The goal of studying the interaction of the business community and CSE is to improve and expand existing business practices so CSE is provided more information regarding parents without unduly adding to the burden on the business community of providing information to CSE.

Objective. The objective is to examine the instances where the business community and CSE currently interact, or potential new areas of interaction, and determine the method(s) of communicating information that strike the optimum balance of the amount of resources required from the business community to provide information to CSE and the value of the information to best meet the needs of children, families, and taxpayers.

Success. The success of the recommendations will be measured by the number of missing parents who are located, the number of new employees that are identified, a reduction in the delay and errors in the current process for providing new hire information or remitting funds, and the number of cases with a collection of child support that can be attributed to increased matching of information.

Justification. Just as it takes a community to raise a child, a parent's failure to support a child can have a negative impact on the community. Examples include poor performance in school, increased juvenile delinquency, increased likelihood of health problems, and increased reliance on public assistance programs. In one form or the other, a parent's failure to support a child leads to increased costs to the public at large and greater burden on taxpayers, and thus the CSE program was created to establish and enforce child support orders.

Although mandates on the business community usually result in costs that are passed through to customers, industry-wide mandates should result in a comparable cost being borne by all

members of the public. The savings to the public from the mandates will come from improved support of children and avoidance of the problems identified in the paragraph above.

Initial Expectations. Several of the Task Force recommendations pertain to the operation of CSE within its existing statutory authority, and should immediately improve the quantity and quality of information that is provided to CSE and act as a catalyst for additional case activity. The remaining recommendations pertain to legislation that, if enacted, will generally not become effective until 2012 (August 2013 in the case of mandatory insurance matching). This will give the business community valuable time to anticipate any changes to existing business practices. Based on data compiled as of September 30, 2014, which is the close of the second federal fiscal year after the recommended laws go into effect, one would expect an increase in the number of orders established, percentage of current support collected, the number of cases with a collection on arrears, and CSE's cost-benefit ratio.

Findings

- A significant number of child support obligors are not forthcoming with CSE regarding their address, employer, or assets, which requires CSE to search for that information from other sources.
- New hire reporting and income withholding are federal mandates and widely-accepted responsibilities of all employers.
- There is still significant room for improvement in the percentage of new hires that are reported to CSE.
- Income withholding is effective and generally honored by employers.
- Electronic reporting of new hires and remittal of funds is more efficient and less prone to error.
- The ability of a business to maintain its own profile on the CSE website would reduce the need for case-specific inquiries to the business and save time.
- Government entities should be expected to provide the same amount of information as private business, if not more.
- A business that chooses to cooperate with CSE in a greater manner than its competitors may find itself at a competitive disadvantage, compared to industry-wide mandates that create a level playing field for all businesses in a given industry.
- A business should not be exposed to an increased chance of litigation as a result of cooperating with CSE and honoring its directives.
- The reimbursement provided to the business community for cooperating with CSE rarely covers the actual costs to the business community, and thus satisfies a cost-benefit

analysis only after the value of the information to the public is added to the analysis and the exchange process is made as efficient as possible.

- The existing county-by-county docketing process to obtain a judgment lien on real property is not efficient for CSE because arrears balances regularly change and the location of the obligor's interests in real property is not always known.
- The use of child support liens on personal property should not unduly impair commerce or harm innocent third parties.
- Computerized data matching has great potential for identifying parents in CSE cases with a minimum of effort, particularly when one considers the large number of parents in North Dakota with child support cases.
- Insurance matching must be conducted carefully to avoid changes in the claims process that lead to significant statewide increases in insurance premiums.

Recommendations

The Task Force recommends that the Department of Human Services:

- Continue to review and expand its outreach to the employer community regarding new hire reporting requirements;
- Develop a functionality on the Department's website for business to maintain a profile that contains helpful information regarding the business, its payroll cycle and benefits, and any health insurance benefits offered by the business; and
- Increase its pursuit of data match agreements or subpoenas with public utilities and other businesses and sources of information.

The Task Force also recommends that legislation be enacted to:

- Follow the precedent of Job Service North Dakota and require employers of more than 24 employees to use electronic methods to report new hires and remit money that has been withheld pursuant to income withholding orders;
- Require new hire reporting of independent contractors who provide recurring services similar to those provided by employees and for which an IRS 1099-MISC form must be filed;
- Create a lien registry, patterned after the Wisconsin lien docket, which creates liens by operation of law on all real and titled personal property, and operates in a way that does not conflict with standard business practices that currently exist.

- Make improvements to the existing voluntary insurance matching process, and require matching of insurance claims with child support obligors effective August 1, 2013.

Areas Lacking Consensus

In the course of the Task Force's discussions and consideration of bill drafts, there were some areas in which consensus could not be reached that need to be addressed in this report.

The legislation requiring new hire reporting of independent contractors was supported by a majority, but not all, of the task force members.

By a narrow vote, a proposal to increase the compensation to financial institutions for participating in the data match process was not recommended. Those in favor of the proposal argued that the cost of the data match greatly exceeded the \$25 per quarter that is currently offered by the Department. Those against the proposal generally felt that participating in the data match is an industry-wide expectation for which additional compensation should not be provided, given the competing demands for state general funds.

Each Task Force meeting included considerable discussion on whether to mandate insurance matching, or retain the voluntary process in current law. The Task Force members on both sides of the question worked cooperatively to draft a mandatory bill that was as clear as possible. In the end, the final decision of the Task Force was to recommend certain improvements in the existing voluntary match process that would become effective on August 1, 2011, and to require insurance matching with an effective date that is delayed until after the 2013 Legislative Session (August 1, 2013).

Conclusion

Information regarding parents, their employers, and their assets can be possessed by a multitude of businesses or entities that may not even be aware of the value of the information to CSE. CSE must remain active in communicating with the business community and exploring new sources of information, while recognizing that there are times when the aggregate cost to the business community of providing information will exceed the benefit of the information unless an efficient method of exchanging information can be created. Thus, in the future, CSE's attention should remain not only on identifying new sources of information, but also working on methods of exchanging information that are efficient and minimize the burden on the business community.

#2

SENATE BILL NO. 2258

My name is Dale Haake, I am the Director of Casualty Claims for Nodak Mutual Insurance, whom I also represent. I had the pleasure of participating in the task force which helped draft this bill, and I am here to testify on several parts of it.

The amendments in Section 2 are the result of much discussion over the actual process of handling claims involving a child support lien. I am quite pleased with what was accomplished, and I feel that, if passed, the process will be smoother and allow greater control of the situation by the insurance carrier.

Where I do have concern is Sections 3 and 4, which are to become effective on August 1, 2013. These sections make the data match for an insurance company mandatory. My company currently participates in the data match on a voluntary basis. We have been participating for approximately four years, and during that time we have had, to the best of my knowledge, four matches. Of those four matches, two were very small liens and the people involved accepted the matter very nicely and the liens were honored without incident. The other two cases were very different.

One ultimately did settle, but not before additional defense expenses were

incurred which approached the amount of child support actually owed. The other case involves a minor injury to a person who owes a significant amount of child support. As settling for a reasonable sum commensurate with his injury would leave him nothing, he has determined to take the matter through to a jury verdict in the hopes of getting a "runaway" verdict. This has resulted in not only a great deal of defense costs, but also has involved my insured in a law suit which he might otherwise not have been involved in.

While an insurance company stands the risk of increased expenses, there is another risk that is of far greater concern. That is the risk to my insured, the person actually being sued. Making the data match mandatory will cause some claims to go into suit which may well have otherwise been resolved through negotiation. The involvement in these suits could easily affect my insured's credit, having negative effect on the ability to secure farm loans, home mortgages, or other forms of credit. Further, and even more serious, is the increased chance for cases which might otherwise settle to go to trial and result in an award in excess of the amount of insurance coverage available. The responsibility to pay the award which is in excess of the coverage falls upon my insured, a person who has absolutely nothing to do with the child support lien.

Please note that this bill seeks information from many sources, with insurance settlements being only one of them. However, the distinction between the other sources and insurance is that each of the other sources deal with the personal assets of the person owing the child support, while the insurance match has a direct effect on my insured, a person who has nothing to do with the unpaid child support, yet faces added personal exposure because of it.

While we all wish to see the back child support paid, it strikes me as grossly unfair to place my insured under a risk of personal exposure for something he or she has absolutely nothing to do with. Yet that is what can happen by making the data match for insurance claims mandatory. I therefore ask that Sections 3 and 4 making participation mandatory be removed and that the system remain on a voluntary participation basis.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

Page 2, line 1, after "subsection" insert "1 or"

Page 2, line 2, replace "twenty" with "ten"

Page 4, line 7, place "twenty" with "ten"

Renumber accordingly

#3

TESTIMONY OF GARY R. THUNE
GENERAL COUNSEL, NORTH DAKOTA INSURANCE RESERVE FUND
to the
NORTH DAKOTA HOUSE HUMAN SERVICES COMMITTEE
REGARDING ENGROSSED SENATE BILL NO. 2258

March 7, 2011

Chairman Weisz and Members of the House Human Services Committee, my name is Gary Thune. I am the General Counsel of the North Dakota Insurance Reserve Fund ("NDIRF"), a government self-insurance pool that provides property/casualty coverage for most political subdivisions in North Dakota, and I appear today in **opposition** to portions of Section 2 and all of Sections 3 and 4 of engrossed SB 2258. Amendments are respectfully submitted with regard to those sections of the bill and we also recognize that Section 15 will need to be amended accordingly if they are adopted.

The amendments are basically intended to preserve the voluntary nature of any data matching between insurers and the department, as both are defined respectively in Section 2 of engrossed SB 2258.

The NDIRF has no argument with most of the new language proposed to be added to section 26.1-02-28 NDCC by Section 2 of engrossed SB 2258. Although we feel it is not a best practice for the NDIRF to willingly allow any type of lien to interfere with resolution of a claim, because doing so *can only increase the cost of claim resolution for our members due to the amount of the lien becoming a claimant's baseline, upon which their true monetary demand is added*, an insurer certainly should be free to choose to do so.

We do not understand the rationale for subsection 7 on page 3 of engrossed SB 2258, however, and therefore urge that it be removed, as it could be interpreted to implicitly subject a government self-insurance pool to the subpoena provisions of section 50-09-08.2 NDCC if it did not voluntarily participate in a data match under section 26.1-02-28. This is not idle speculation on the NDIRF's part as the department, immediately following conclusion of the interim task force deliberations last summer, issued a subpoena to the NDIRF for data matching purposes despite the clearly voluntary process enacted by the Legislative Assembly in 2009 (26.1-02-28). The matter is being litigated now, *even as we*

live under the current voluntary statute and the Legislature is debating a bill (this bill - SB 2258) that would maintain voluntary status until at least August 1, 2013.

The suggested amendments would also remove Sections 3 and 4 of SB 2258, as those sections would impose a mandatory data match effective August 1, 2013. In addition to the reasons stated above regarding the certain added financial costs of data matching to its claim settlement process, the NDIRF has concerns regarding applicability of the various statutes providing immunity for disclosure of confidential information, such as social security numbers, to the department. The interplay of these statutes has not, in most cases, been judicially determined and the possible penalties for improper disclosure of confidential information are serious. Apparently, the NDIRF is not alone in its confusion regarding this issue as the House recently passed House Concurrent Resolution No. 3037, directing an interim study of the more than 90 statutes granting civil or criminal immunity for actions that meet their requirements, with the stated goal of providing clarity and consistency among them.

Additionally, with regard to the second paragraph of Section 4, we submit that such a penalty provision is unduly severe - any failure of an insurer's employee to comply with a mandatory data match would simply be clerical error and should not subject that essentially innocent individual to payment of the *delinquent child support obligor's financial responsibility, plus penalty amounts.*

It took the department more than a decade, from the enactment of 1997 welfare reform legislation, to get around to seeking data matching from property/casualty insurers. In our view, this was not an improper failure to prioritize a significant source – *the failure to properly prioritize is occurring now.* The NDIRF pays very few claims of the type defined in engrossed SB 2258 (less than a dozen in the 7 months since the department issued its subpoena last July) and, of those, only a miniscule number would match with the department's record of delinquent obligors. However, in virtually every case where a match would occur, claim resolution costs would increase significantly. The balance point of competing public policy implications here should properly rest upon a voluntary data match.

Thank you for your consideration. I would be pleased to respond to any questions.

March 7, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2258

Page 1, line 1, after "chapter 14-09," remove "two new subsections to"

Page 1, line 2, remove "section 26.1-02-28,"

Page 3, remove lines 18, 19 and 22 through 30

Page 4, remove lines 1 through 9

Renumber accordingly