2017 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1108

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1108
1/6/2017
26656

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the availability of records involving security and cyber attacks

Minutes: Attachment 1

Chairman Kasper opened the hearing on HB 1108.

Mike Lynk, Director of State Radio, appeared in support. Greg Wilz, Director of Homeland Security, has the testimony for this bill. He is in another committee meeting right now testifying. He hopes to be down soon.

Dan Sipes, Interim Chief Information Officer, Information Technology Department, appeared in support. The Governor did have a cyber-security task force that met during the interim. There was a task force report. When we look at where we are going with cyber security and the sharing of cyber security information, our office would be in support of this bill. As we combat cyber security, the sharing of information is very pivotal in combatting that. How do we encourage people to share information that they may not otherwise want to share and do that in a way where they can do that and it is going to be held in confidence?

Rep. Olson: Who would be able to review this information given that it is exempt?

Dan Sipes: I know one of the things we have talked about with the future of our cyber disruption plan in the state is that people could report that so members of the SLIC (State and Local Intelligence Center) that were basically charged with intelligence would review that and from the future perspective, our goal would be to pull that information. Let's say, you are a business that had an issue that would be relevant to other businesses. We would extract that information and talk about we have a threat to the state overall. It would be agnostic of the business that was impacted, but we could inform the rest that it was the energy sector, the health sector, the banking sector about those types of things.

Chairman Kasper: What type of access do you now have under ND or federal statue to look at either corporate or business or personal information if you are concerned about some cyber situation?

Dan Sipes: There is already existing Century Code regarding the reporting of breaches that goes to the Attorney General's office. It is that high level information. Inside state government we have the ability to run the state network, and so we have the access we need inside the state government. I am not aware of any existing Century Code that would give state government unilateral access or requires somebody to give us information. This bill doesn't require anybody to give us information. The intent is to say if we could create a collaborative partnership, we would like to get that information, and if you are willing to give it to us, we will hold it in the strictest confidence.

Rep. Olson: Could you tell me more about SLIC.

Mike Lynk, Director of State Radio, appeared to answer the question. SLIC (State and Local Intelligence Center) was a consortium of investigators and critical infrastructure personnel that look and analyze all threats from Homeland Security. It was initially a federal project that provided funding to put together in each state these SLICs.

Rep. Schneider: Could you inform us about State Radio.

Mike Lynk: State Radio is a division of the Department of Emergency Services which is under the Adjutant General's Office. The department is divided into two divisions, Homeland Security and State Radio. State Radio is primarily the state's 911 center. We dispatch for all of the state law enforcement officials and most of the other state agencies that have an access to needing radio checks like Park and Recreation, etc. We coordinate with the other Public Safety Answering Points (PSAP). There are 21 of them in the state of North Dakota. We also put out and manage the LET system. It is a teletype system with connectivity to the federal government and the other states for warrants and information. I also manage the IT Department for the Department of Emergency Services.

Rep. Vetter: The information you receive is not subject to the public, open records?

Mike Lynk: Yes. We are trying to protect those records. We are trying to protect critical infrastructure with this bill.

The committee stood in recess until Mr. Wilz could speak.

Greg Wilz, Deputy Director, Department of Emergency Services and Director of Homeland Security, appeared in support. Attachment 1. (10:12-14:38)

Rep. Rohr: How would you handle an abuse of the policy?

Greg Wilz: Who would be abusing the policy?

Rep. Rohr: That is what I am asking you. You brought it up that government is getting this information and then using it against the public instead of for it.

Greg Wilz: If we get a court order to disclose information, the mere fact that it is exempt in state law does not protect us from releasing that information. If there is something out there

that the public or industry thinks they absolutely have to have, there are legal proceedings to get it.

Chairman Kasper: I don't think you answered Rep. Rohr's question. If this confidential information was given to your agencies and someone in state government used that confidential information and abused the knowledge that they have it and shared it outside, what would be the remedy for the abuse and unlawful use by a state government employee of that information?

Greg Wilz: I would fire that person.

Chairman Kasper: I don't know if that would be anywhere near mitigating to what could have happened. If some confidential information from a private company in North Dakota was given to a competitor, there could be huge ramifications. What about the potential liability and the potential results to the business that their confidential information was breached?

Greg Wilz: We have lots of levels of security clearance. To mitigate those risks, I would tell you that most of the employees that work for us that have the high level of clearance have background checks every two years. They are provided training on an annual basis as to what they can and cannot share. Should it happen, I would fire those people and at some level, there is going to be a liability issue. I guess that is why we have insurance.

Chairman Kasper: Who pays the liability? Would it be the responsibility of state government because it was a state employee who breached that information? Is there liability insurance in place or are we using the insurance reserve funds?

Greg Wilz: This is a little over my head. I am not a lawyer. I assume that there is liability on the state should we violate a person's ability to sustain those areas of his business. Our people are trained to know what we can share and pass on to our competitors. We try to mitigate it as much as possible.

Rep. Olson: When you say "we," are you referring to the Department of Emergency Services or also the State and Local Intelligence Center?

Greg Wilz: I am referring to both.

Chairman Kasper: Once this issue is looked at, and let us assume it was a false alarm, what do you do to dispose of that information?

Greg Wilz: We shred all evidence.

Dan Sipes, Interim Chief Information Officer, appeared. We shred our hard drives when we dispose of them. In reference to Rep. Rohr's and your rephrased questions, I am thinking there is some existing Century Code that states if you violate and disclose confidential information, there are penalties that apply.

No opposition.

Chairman Kasper closed the hearing.

Chairman Kasper: Perhaps Megan, the law intern, could research Century Code to see what a penalty is. The key point of the bill is if we are going to be able to have our state agencies do their job, they need to assure the public that their information is not going to be shared.

Rep. Steiner: I realize that things like this need to be done. With the DAPL protest, I have people back home who have applied for information to Morton County law enforcement. They want to know really what is going on. They are not sure if the newspaper accounts are accurate. When they ask for information, they are told it is exempt because it is a police operation. I will support this bill, but I wrestle with how much do you make exempt from the public eye, because it is the public eye that holds everybody accountable. I would like you to know how concerned the public is about getting the truth.

Rep. Laning made a motion for a DO PASS on HB 1108.

Rep. Dockter seconded the motion.

A roll call vote was taken. 14 Yeas, 0 Nays, 0 Absent.

Rep. Karls will carry the bill.

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1108
1/12/2017
26850

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the availability of records involving security and cyber attacks

Minutes:

Chairman Kasper opened the meeting on HB 1108. This bill was sent back from the floor to our committee for reconsideration. There is a big issue on the public's ability to know when some of the cyber-attacks and other issues might occur. We have talked informally with most of the stakeholders that are here in the room with us—the National Guard, Homeland Security, and the newspaper organizations. They are willing to meet individually over the next week and try to come up with a compromise amendment that we could consider that we will protect the ability of these public or private entities to provide information when it is needed when there may be a cyber-attack or disastrous situation. We have to be sure we have legislation that the private companies will disclose this information without it harming them. Otherwise, we may not be able to avoid something that could be really catastrophic. Mr. Greg Wilz will spearhead this group. Mr. Wilz would like to come back and take this bill up for Friday morning, January 20.

The meeting was closed and will again be discussed on the morning of January 20.

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1108
1/27/2017
27529

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the availability of records involving security and cyber attacks

Minutes: Attachment 1

Chairman Kasper opened the meeting on HB 1108. This bill was brought back to us from the floor.

Vice Chair Louser made a motion to reconsider this bill.

Rep. Olson seconded the motion.

A voice vote was taken. Motion carried.

Chairman Kasper: This was a bill where there were some arguments with the newspaper people, other legislators, Homeland Security and other agencies about privacy and public records and so on.

Rep. Karls: Attachment 1 is the amendment that was worked out with a member of the AG staff and Greg Wilz of Emergency Services and Rep. Devlin. We were hoping Jack McDonald would be here from the newspaper association who was also included. This amendment would basically remove Section 1 and replace it with the wording you see at the bottom of the amendment. She read it. (1:21-2:18) In the event of a cyber-attack, the governor is notified. When in session, leadership is also included in that notification. When we are out of session, it is up to the governor to notify leadership. I move the amendment.

Rep. Vetter seconded the motion.

A voice vote was taken. Motion carries.

Greg Wilz, Director of Homeland Security, appeared.

Chairman Kasper: Mr. Wilz, tell us what this amendment does and does not do and if it solves the concern of the agencies that are involved and the information you need to gather if there is a cyber-attack or other emergency.

Mr. Wilz: I know Jack McDonald would be okay with this amendment. Otherwise, he would have been here. There was some confusion about the whole notification process. The core mission of Emergency Services is a safe and secure homeland, and a part of that is making sure that people are prepped and ready and plans exist that we can deal with a whole bunch of things. One of our main jobs at the agency is to make sure the right information gets to the right people at the right time. Since legislative leadership has been in, we have met with the leadership a couple of times talking about what is going on in North Dakota from the pending flood, protests, and the snow. When the legislature is not here, we do have direct communication with the Governor's Office. The Governor's Office has with the department what we call GCIR (Governor's Information Requirements List). We are adding the State and Local Intelligence Center. That is a center that is made up of a number of agencies, and we are adding the ability for cyber threats in addition to the things we have already had to be exempted. I remind you that if something happens in the state of North Dakota, the state of North Dakota should know about it before it becomes a disaster or a catastrophic level event.

Vice Chair Louser: I read the cyber threat different than a cyber-attack. A threat is imminent, and an attack has happened. Can you distinguish why the change?

Mr. Wilz: If we were under attack, that information would be known very quickly to the media. We would have consequences, because we are physically under that attack. This is really geared toward limiting us to just protect just that piece which is a threat. If we have a critical industry sector out there that has a cyber-threat that they are concerned about, they can notify us. We can work with them and potentially bring in the resources so that this does not become a full-blown attack. We can deal with it before it becomes an emergency disaster or a catastrophic event.

Rep. B. Koppelman made a motion for a DO PASS AS AMENDED on HB 1108.

Rep. Karls seconded the motion.

A roll call vote was taken. 9 Yeas, 2 Nays, 3 absent.

Rep. Karls will carry the bill.

1/21/17 DA

17.8047.01001
Title.02000

Adopted by the Government and Veterans Affairs Committee
January 27, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1108

Page 1, line 1, replace "create" with "amend"

Page 1, line 1, replace "enact a new" with "reenact"

Page 1, line 1, replace the second "to" with "7 of"

Page 1, replace lines 4 through 8 with:

"**SECTION 1. AMENDMENT.** Subsection 7 of section 44-04-18.4 of the North Dakota Century Code is amended and reenacted as follows:

7. Unless made confidential under subsection 1, records received by the state department of emergency services under chapter 37-17.1 and the state local intelligence center from the federal government and any public or private agency or entity for disaster mitigation, preparation, response, and recovery, or for cyber threat are exempt."

Renumber accordingly

Date: 1-6-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1108

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Laning Seconded By Dockter

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	X		Pamela Anderson	X	
Scott Louser-Vice Chairman	X		Mary Schneider	X	
Jason Dockter	X				
Craig A. Johnson	X				
Daniel Johnston	X				
Karen Karls	X				
Ben Koppelman	X				
Vernon Laning	X				
Christopher D. Olson	X				
Karen M. Rohr	X				
Vicky Steiner	X				
Steve Vetter	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Karls

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

Date: 1-27-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1108

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ _____

Motion Made By Louser Seconded By Olson

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman			Pamela Anderson		
Scott Louser-Vice Chairman			Mary Schneider		
Jason Dockter					
Craig A. Johnson					
Daniel Johnston					
Karen Karls					
Ben Koppelman					
Vernon Laning					
Christopher D. Olson					
Karen M. Rohr					
Vicky Steiner					
Steve Vetter					

Voice Vote Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 1-27-17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1108

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: 17.8047.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Karls Seconded By Vetter

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman			Pamela Anderson		
Scott Louser-Vice Chairman			Mary Schneider		
Jason Dockter					
Craig A. Johnson					
Daniel Johnston					
Karen Karls					
Ben Koppelman					
Vernon Laning					
Christopher D. Olson					
Karen M. Rohr					
Vicky Steiner					
Steve Vetter					

Voice Vote motion carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 1-27-17
Roll Call Vote #: 3

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1108

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By B. Koppelman Seconded By Karls

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	X		Pamela Anderson	Ab	
Scott Louser-Vice Chairman	X		Mary Schneider	X	
Jason Dockter	X				
Craig A. Johnson	X				
Daniel Johnston		X			
Karen Karls	X				
Ben Koppelman	X				
Vernon Laning	X				
Christopher D. Olson		X			
Karen M. Rohr	Ab				
Vicky Steiner	Ab				
Steve Vetter	X				

Total (Yes) 9 No 2

Absent 3

Floor Assignment Karls.

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

REPORT OF STANDING COMMITTEE

HB 1108: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1108 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1108: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1108 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "create" with "amend"

Page 1, line 1, replace "enact a new" with "reenact"

Page 1, line 1, replace the second "to" with "7 of"

Page 1, replace lines 4 through 8 with:

"**SECTION 1. AMENDMENT.** Subsection 7 of section 44-04-18.4 of the North Dakota Century Code is amended and reenacted as follows:

7. Unless made confidential under subsection 1, records received by the state department of emergency services under chapter 37-17.1 and the state local intelligence center from the federal government and any public or private agency or entity for disaster mitigation, preparation, response, and recovery, or for cyber threat are exempt."

Renumber accordingly

2017 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1108

2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

HB 1108
2/16/2017
Job Number 28439

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 7 of section 44-04-18.4 of the North Dakota Century Code, relating to the availability of records involving security and cyber attacks.

Minutes: Attachments: 1-2

Chairman Poolman: Opened the hearing on HB 1108.

Greg Wilz, Deputy Director, Department of Emergency Services and Director, North Dakota Homeland Security: See Attachment #1 for testimony to explain the bill and in favor of the bill. It took a while to come to consensus and get this bill out of the House. Essentially, we are adding to Century Code the ability for the State and Local Intelligence Center to receive the same information that the Department of Emergency Services receives within law and to have the ability to exempt it from open records. It also adds any information that would pertain to a cyber-threat.

(2:10) Chairman Poolman: What is the State and Local Intelligence Center?

Greg Wilz: The state fusion center, also known as the State and Local Intelligence Center, has been around since 2003. In 2005, it was formally organized under executive order by Governor Hoven. Eventually, we will come before you, probably next session, and ask you to codify that in law because it is a long standing best practice across all 50 states. In fact some states have two. It is a task force, an add hawk organization that is supported right now by the North Dakota Highway Patrol, Bureau of Criminal Investigation, North Dakota National Guard, Department of Emergency Services, Border Patrol, DHS out of Washington DC, and sporadically by the FBI. Each one of these entities put people into this center that is located at the National Guard Headquarters, and each and every day they come to work and they look at and analyze the threats in the state of North Dakota and they work with emergency management and law enforcement to assist them in casework and provide them with what the threats are. It is a team of 13 to 14 people that come in from these agencies to do this work. More recently ITD has been added as a stakeholder and executive board member, and we are in the throws because of the looming threat to cyber issues and what that could really mean across the nation. We are in the process of opening up a cyber-desk in the intelligence center.

(4:10) Greg Wilz: (Returned to testimony.)

(7:55) Senator Bekkedahl: In regards to the State and Local Intelligence Center, you are talking about state entities more than local, and my question is if local police and sheriff's departments are involved since they are tied based on the title?

Greg Wilz: Yes, they are tied to the center. They are the recipient of about 90% of the work product that comes out. Every day there are BOLOS, threat advisories, and hot sheets that come out that we do a general threat analysis on. That is largely pushed to our law enforcement partners. Law enforcement, at the local level, is represented in the fusion center by an employee that we hire as a local liaison. That liaison is vetted with the local law enforcement entities. Typically, we hire a former and retired law enforcement officer so there is an instant trust.

(9:40) John Olson, BNSF Railway: Testified in support of the bill. See Attachment #2 for testimony provided from BNSF security and safety headquarters in Fort Worth. We have a lot of facilities and track that we want to remain secure and safe.

(12:30) Dan Sipes, Interim CIO: Testified in favor of the bill. This is a pivotal piece to how we address cyber-security. We have been fortunate in this state where we have had a lot of our private sector partners already participating in the various forms that we have to share best practices around cyber-security. Sharing threat intelligence, vulnerabilities, and breaches is also paramount and you will see it across the nation. States really are trying to position themselves to create that most effective partnership in combatting cyber-security, which is the public/private partnership. Having that exchange of information and being able to notify people to create a forum for confidential exchange is a pivotal of what we are trying to do around our cyber-security strategy here in the state.

Chairman Poolman: No further testimony was present. Closed the hearing on HB 1108.

Senator Vedaa: Moved a Do Pass.

Senator Marcellais: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Vedaa will carry the bill.

Date: 2/16
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1108

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Vedaa Seconded By Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	Ab				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Vedaa

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

REPORT OF STANDING COMMITTEE

HB 1108, as engrossed: Government and Veterans Affairs Committee (Sen. Poolman, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1108 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1108

Attach 1
1108
1-6-17

TESTIMONY – HB 1108
GOVERNMENT AND VETERANS AFFAIRS
JANUARY 6, 2017
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am Deputy Director of the Department of Emergency Services (DES), and Director of the Homeland Security Division. I offer testimony in support of House Bill 1108.

Approximately two sessions ago passed the following language: *"Unless made confidential under subsection 1, records received by the state department of emergency services under chapter 37-17.1 from the federal government and any public or private agency or entity for disaster mitigation, preparation, response, and recovery are exempt."*

It is imperative to enhance security of our citizens by expanding the law to exempt from open records documented information received by the Department of Emergency Services and State and Local Intelligence Center related to virtual or real security breaches, threats, cyber-attacks, or attempted cyber-attacks. This is crucial in developing and maintaining relationships and open lines of communication with critical industry sector partners who provide essential lifeline support services such as food, water, sewer, power, energy, banking, and medical.

Risk of a single security breach can quickly turn catastrophic affecting millions of people by disrupting or suspending services people rely upon to survive. Most critical infrastructure is owned by private industry but government is responsible for the consequence management involving failures that create large scale emergencies or disasters. I unequivocally believe government should be in be informed immediately in order to fulfil its obligation to mitigate damage quickly and prevent or reduce cascading effects from the ever evolving number and types of sophisticated threats.

Unfortunately, most industry or corporate executives will not report security breaches due to fear of a competitive disadvantage and backlash from the public or investors. Last year, the governor formed a cyber security task force to review infrastructure and technology vulnerabilities, standards, and other preparedness and mitigation strategies and actions. During this biennium, a number of initiatives will take place to meet the continuing threat environment.

On behalf of the Department of Emergency Services, I recommend HB 1108 receive a due pass. Interrupt

Thank you for your time; I will answer questions you may have

Attachment 1
1108
1-27-17

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1108

Page 1, line 1, replace "create" with "amend"

Page 1, line 1, replace "enact with "reenact"

Page 1, line 1, remove "new"

Page 1, line 1, after "subsection" insert 7

Page 1, line 1, replace "to" with "of"

Page 1, replace lines 4 through 8 with:

SECTION 1. Subsection 7 of section 44-04-18.4 of the North Dakota Century Code is amended and reenacted as follows:

Unless made confidential under subsection 1, records received by the state department of emergency services under chapter 37-17.1 and the state local intelligence center from the federal government and any public or private agency or entity for disaster mitigation, preparation, response, and recovery, or cyber threat are exempt.

HB 1108 2-16-17 #1

TESTIMONY – HB 1108
SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
FEBRUARY 16, 2017
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Ms. Chairman and members of the committee, my name is Greg Wilz. I am Deputy Director of the Department of Emergency Services (DES), and Director of the Homeland Security Division. I offer testimony in support of House Bill 1108.

Risk of a single security breach involving cyber threats or cyber-attacks can quickly turn catastrophic by disrupting or suspending services people rely upon to survive potentially affecting hundreds of thousands of our citizens and millions nationwide. Most critical infrastructure is owned by private industry but government is responsible for consequence management involving failures that create large scale emergencies or disasters. Unfortunately, most industry or corporate executives will not report security breaches due to fear of a competitive disadvantage and backlash from the public or investors.

Approximately two sessions ago the following language was passed: *"Unless made confidential under subsection 1, records received by the state department of emergency services under chapter 37-17.1 from the federal government and any public or private agency or entity for disaster mitigation, preparation, response, and recovery are exempt."*

It is imperative to expand this law based upon the critical nature of cyber security. Therefore, this bill adds the State and Local Intelligence Center to the above section of law and seeks to exempt cyber threat information received by both the Department of Emergency Services and State and Local Intelligence Center from open records. This is crucial in developing and maintaining relationships and open lines of communication with critical industry sector partners who provide essential lifeline support services such as food, water, sewer, power, energy, banking, and medical.

If communication from critical industry sector partners is not forthcoming, it will be impossible for government to meet its obligation to mitigate damage quickly and prevent or reduce cascading effects from the ever evolving number and types of sophisticated threats.

Last year, the governor formed a cyber security task force to review infrastructure and technology vulnerabilities, standards, and other preparedness and mitigation strategies and actions. During this biennium, a number of initiatives will take place to meet the continuing threat environment. HB 1108 serves as an important cornerstone in addressing this issue.

On behalf of the Department of Emergency Services, I recommend HB 1108 receive a do pass.

Thank you for your time; I will answer questions you may have.

HB 1108 2-16-17 #2
Senate GVA
2/16 9:30

From: "Lee, Kerri Lynn" <Kerri.Lee@BNSF.com>
Subject: Re: ND. HB1108
Date: January 18, 2017 3:54:22 PM CST
To: "Sweeney, Brian J" <Brian.Sweeney@bnsf.com>
Cc: "Long, Jonathan A" <Jonathan.Long@bnsf.com>, John Olson <olsonpc@midco.net>

All,
I asked my SLIC contact that I was speaking with about this for some assistance. The following is what he sent me. I am a part of the ILO (Information Liaison Officer) for ND SLIC as well. Please let me know if you have any other questions, thanks!
Kerri

Kerri,
I believe the main talking points for HB 1108 from a private sector standpoint would be as follows:

1. Voluntary information sharing networks are paramount in securing and preventing incidents for the state's critical infrastructure which is why they are backed by both industry, the federal government and the State of North Dakota through the North Dakota State and Local Intelligence Center and the Department of Emergency Services.
2. In order to be effective, participants need to feel confident that the information they share will be kept in confidence so as not to reveal vulnerabilities in industry, not to reveal protective measures that are in place, not to reveal proprietary information, and to marginalize risk of business losses that could arise if the information were to become public (damage to stock prices, public image, etc).
3. All information sharing is voluntary and those who share information can be anonymized during reporting to protect business image.
4. Information is used to inform stakeholders throughout the state and country of potential or imminent threats to both physical and cyber-attacks, thus providing warning and time to emplace defenses.
5. Without proper protections in Century Code, BNSF would be less likely to share information at all or would only share information that is scrubbed of some usefulness in order to protect BNSF.
6. Current Century Code can put a business's desire to be a good citizen with the necessity to protect their own interests first.

I think that this could be expanded upon, but this would match what other industry officials have shared as their concerns with current ND Century Code as it relates to information sharing.

I would be available for a phone call to discuss any issues, questions or concerns as well if they would like. My cell # is 226-0900.

Thanks for your support of the SLIC and the ILO program!

Darin Hanson

From: Sweeney, Brian J
Sent: Wednesday, January 18, 2017 1:20:51 PM
To: Lee, Kerri Lynn
Cc: Long, Jonathan A; John Olson
Subject: Re: ND. HB1108

Can you forward a couple of talking points so we can explain our support? Thanks.