

2009 SENATE NATURAL RESOURCES

SB 2068

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2068

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 15, 2009

Recorder Job Number: 7044

Committee Clerk Signature

Minutes:

Senator Lyson opened the hearing on SB 2068, relating to the use of social security numbers on game and fish licenses and permits. Attendance was taken and all members of the committee were present.

Senator Art Behm introduced the bill. Several people have approached me with questions about the need to have social security numbers on the hunting licenses. It is so easy for people to steal identities that it is just one more place to get the information.

Senator Lyson asked if Senator Behm had any background on any one who had problems with this.

Senator Behm replied just by word of mouth. One fellow had a telephone call out of the blue from someone who wanted to confirm information from him. The fellow asked how he got the information in the first place and he replied, "from your hunting license".

John Risch, rep for the United Transportation Union, I have had personal issues with this over the years. I apply directly at the game and fish department and repeatedly refuse to give them my social security number, but they have had it from years ago. When I apply for my license they will ask for my social security number and I won't give it, but they look me up in the system and they have my number right on the screen. I have worked successfully with the

company I work for, Northern Pacific Santa Fe Railroad, to get theirs eliminated. It is kind of interesting story how that took place. The Santa Fe used social security numbers for seniority rosters, so they print seniority rosters with ten to even thousands of names with social security numbers. That was their employee number. I worked with the railroad to get it changed so we would get individual employee numbers that weren't social security numbers. I got a couple of articles on the danger of identity theft and what people could do with your social security numbers, getting access to your bank accounts or whatever the case maybe. I sent a letter to the chairman of the board of NPSF railroad, outlining the problems of identity theft and on the last page I had his social security number in big font all the way across it, because it was accessible by so many people in the NPSF railroad. Within a week we changed policy at NPSF. The one other problem I have with this is that if you don't give the game and fish department your social security number you are penalized. I applied for an antelope licenses and it was a point system. They allowed me to apply for an antelope license but they said if you don't give us your social security number to put on the application, you will not be awarded points for each time fill out a license you subscribe to. So in addition to it being wrong, people are actually penalized for not giving it to them. I condone Senator Behm for introducing it and urge the committee to pass it.

James Fleming, Deputy Director and Chief Legal Counsel of the Child Support Enforcement Division of the Department of Human Services. Appeared in opposition of SB 2068 (see attached testimony #1.)

Senator Lyson if the game and fish department gave each person that gets a license a lifetime number, and have on their records our social security number that would be protected from anyone else receiving that number, would that take of the exemptions?

James Fleming replied that if it was setup that it would guarantee that every alternate number had a SSN on file to back it up, a person could submit that as an exemption and have some hope that it would be approved. Short of a federal exemption being sought and obtained we will not be able to do that. The mandate doesn't give us the flexibility of having an alternate process. It mandates the use of a number unless they grant us an exemption.

Senator Triplett asked why couldn't the same number used for motor vehicles be used for game and fish?

James Fleming responded that it also might be something that could be packaged for a federal exemption. The challenge in that instance is child support would have access to the driver's license file and would have access to game and fish's file, but game and fish and DOT don't have an authorized transfer like that. We will look into any exemption.

Senator Triplett asked what the loss would be to the state in the number of zeros if we lost the funds that you have referred to.

James Fleming replied the ball park figure that our fiscal division provided is at \$68,000,000.

Senator Schneider asked what kind of exemption the DOT has.

James Fleming responded their licenses are renewed. The application is to extend the existing license and you only give your social with the original application. The game and fish has seasons that begin and end and you apply for a license all over again.

Foster Ray Hager, of the Cass County Wildlife Club, handed out testimony in opposition of the bill (attachment #2).

Paul Schadewald, Chief of the administrative services division of the North Dakota Game and Fish Department, we are neutral on this bill, but we would like to explain a couple issues (see attached testimony #3).

Senator Triplett asked Parrell Grossman to answer a question. Can you give us some idea of what you are aware of that individual people have had to pay out as costs to reclaim their identity after they have been victims of identity theft?

Parrell Grossman, Director of Consumer Protection Division, replied that consumers can lose thousands of dollars in identity theft. When you compare the potential loss to victims of identity theft, I think the cost of \$150,000 or \$200,000 it would be incurred to help rectify this problem is pretty minimal.

Senator Lyson asks the game fish department, Parrell Grossman and Mr. Fleming to try to find a solution to this problem and present it to the committee in two to three weeks. Closed the hearing on SB 2068.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2068

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 29, 2009

Recorder Job Number: 8087

Committee Clerk Signature



Minutes:

Senator Lyson opened the discussion on SB 2068, relating to the use of social security numbers on game and fish licenses and permits.

Jim Fleming, Department of Human Services, as requested by the committee the Consumer Protection Division of the Attorney General's Office, Department of Human Services and the

Game and Fish Department sat down and discussed alternate ways of obtaining personal identifiers on game and fish applications that would support a request from the federal government for an exception from the literal requirement of seeking the SSN. As the bill was originally drafted it changed the current language from what you have to record on the application as the SSN to a different distinguishing number. The face of the license has not been an issue with the bill or current law. It is more what has to be provided to game and fish.

We came up with a unique identifier that can be reverse engineered to a person's SSN. With an extra step we can reverse engineer the number provided on the game and fish application to the person's SSN. If that number belongs to a person who owes past due child support and should not be getting a license we can notify game and fish of that fact. We feel that if the committee wants to adopt this amendment we would be willing to submit an exemption. To

make this happen it will take an appropriation of funds for the computer programming. There is

also a separate appropriation in the amendments for your consideration to cover the costs of the Game and Fish Department in section 3 and costs of Human Service Department in section 4 and then there is a contingent effective date so if the federal government does not grant the exemption the law will not take effect and the funding will not be jeopardized. If they do grant the exemption this will take effect when the department notifies the legislative council or January 10, 2010.

Senator Lyson wants to go through the amendment from the beginning.

Jim Fleming the social security number was left in the language to maximize the customer's choice. They can use which ever they want. #2. The list of expectable alternatives that could be provided on the application would include an operator's license number, identification card number or an instructional permit issued by the Department of Transportation. They could also use their hunter's education certificate number or a unique identifier issued by the Game and Fish Department.

Senator Erbele you said there would be an extra step in the process, what would be the length of time and will Game and Fish just sit on the license until they hear back that this person is ok to have one?

Jim Fleming the extra step is what the computers tell each other each night. It will not add time to the customer.

Senator Pomeroy the purpose is to find dads who are in default on their child support payments; will that program be affected by this change also?

Paul Schadewald that is what we would be modifying. We would make it so we could continue the interface with child support. They actually set up a file with the people who are delinquent in it and our computer systems go to their file and check. We want to be sure they stay compatible.

Senator Lyson closed the discussion on SB 2068.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2068

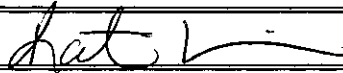
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 29, 2009

Recorder Job Number: 8178

Committee Clerk Signature



Minutes:

Senator Lyson opened the discussion on SB 2068.

Senator Freborg moved a Do Pass on Amendment .0101

Senator Erbele seconds the motion.

Senator Pomeroy it seems to me that it is making a problem where there is no need for a problem.

Senator Triplett I have to disagree, I thought we heard in the original hearing that there is a problem for potential identity theft and this would respond to that problem.

Senator Lyson yes, which is why the bill came out to begin with. Then we ran into the child support problem and we came up with an amendment to correct that problem. When we discussed this earlier we felt that there was not a real problem and I think that is where Senator Pomeroy is coming from.

Senator Triplett moves a Do Pass on SB 2068.

Senator Hogue seconds the motion.

The motion was defeated on a vote of 3 to 4.

Senator Erbele moved a Do Not Pass on SB 2068.

Senator Pomeroy seconds the motion.

Senator Lyson explains that they have not had any complaints as far as the state is concerned.

Senator Hogue there was some discussion on when you go to the hardware store to get a license you do not have to give them your full social security number; you just have to give them your last four numbers. This significantly reduces the possibility that your number could be miss appropriated by somebody because all they got at the store was four of the nine digits.

Senator Triplett for online applications they are required to put the full number in there is a possibility of hacking, correct?

Paul Schadewald that is correct. The problem with the paper licenses was that they sat out there for several months with the full social security number on them prior to the changes that the legislature made last time.

Senator Triplett the problem with data bases is employees taking home laptops or company computers being stolen and then having to notify thousands of people that their social security numbers may have been compromised. I think if we have an opportunity for a fix here, \$150,000 seems really inexpensive to fix this kind of a problem.

Senator Lyson child support told us that they have to have the full social security number in their database or they lose all their federal money. The Game and Fish Department has to have the full social security number as well.

Paul Schadewald that is my understanding as well. We have to have the social security numbers so they can link to it. We would get it from the customer at least once and then we would use another number. Department of Transportation has the social security number and our database is right there beside theirs. We have a small number of customers who have complained about this and they are very adamant about it. We have a lot of people who do not think twice about providing that number.

Senator Freborg if right now you only need to write in your last four digits of your social security number at the hardware store; what are fixing? We still need to provide all the numbers electronically.

Senator Triplett what if you adjusted your form for the online applicants to say that they only need to provide the last four if they are in the system already? Would that prevent the possibility of hacking? Just because the Game and Fish Department has a secure system at the hub doesn't mean that users at home are secure.

Paul Schadewald the last four digits on the paper licenses are never keyed into the data on the computer. It was part of a compromise so child support could get a waiver. As far as using the last four on the online system, we don't think it will be adequate because we are dealing with such a large group of customers. If we are going to make a change we would rather use the driver's license number or hunter's education number.

The bill received a Do Not Pass on a vote of 4 to 3.

FISCAL NOTE
Requested by Legislative Council
02/02/2009

Amendment to: SB 2068

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$165,000			
Appropriations			\$165,000			

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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).*

Currently hunting and fishing license buyers must provide their social security number on license applications. Those who are delinquent on child support are denied licenses. SB2068 allows Game and Fish to have license customers use an alternate ID number if the customers SSN is already on file.

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.*

ND Department of Human Services is required to have this system to penalize those delinquent on child support payments. A federal waiver will be required to use alternate numbers in place of the social security numbers. This change may or may not be approved.

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.*

Game and Fish has major computer system changes to make to accommodate this change. The web licensing system, and lotteries for deer, turkey, pronghorn, moose, elk, and bighorn are involved. Work on these systems will have to be done by the ND Information Technology Department.

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.*

\$150,000 is appropriated to the Game and Fish Department to modify their computer systems to use alternative numbers. \$15,000 is appropriated for the Department of Human Services to modify their systems. Child Support staff would continue to maintain the list of delinquent individuals with a link with Game and Fish computer systems.

Name:	Paul Schadewald	Agency:	ND Game and Fish Department
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Phone Number: 701-328-6328

Date Prepared: 02/02/2009

Date: Jan 29, 2009

Roll Call Vote #: 2068 #1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number 90370.0101

Action Taken Do Pass Do Not Pass Amended Amendment

Motion Made By Sen. Freborg Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman	/		Senator Jim Pomeroy	/	
Senator David Hogue, Vice Chairman	/		Senator Mac Schneider	/	
Senator Robert S. Erbele	/		Senator Constance Triplett	/	
Senator Layton W. Freborg	/				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: Jan 29, 2009

Roll Call Vote #: 2068

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Triplett Seconded By Sen. Hogue

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman		/	Senator Jim Pomeroy		/
Senator David Hogue, Vice Chairman	/		Senator Mac Schneider		/
Senator Robert S. Erbele		/	Senator Constance Triplett	/	
Senator Layton W. Freborg	/				

Total (Yes) 3 No 4

Absent _____

Floor Assignment _____

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

Date: Jan 29, 2009

Roll Call Vote #: 2068

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Erbele Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman	/		Senator Jim Pomeroy	/	
Senator David Hogue, Vice Chairman		/	Senator Mac Schneider	/	
Senator Robert S. Erbele	/		Senator Constance Triplett		/
Senator Layton W. Freborg		/			

Total (Yes) 4 No 3

Absent _____

Floor Assignment Sen. Pomeroy

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

REPORT OF STANDING COMMITTEE

SB 2068: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2068 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 20.1-03-35 of the North Dakota Century Code, relating to the use of social security numbers or other alternate unique identification numbers on game and fish licenses and permits; to provide an agency directive; to provide an appropriation; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-03-35 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-35. Social security number or alternate unique identification number to be furnished.

1. The social security number or alternate unique identification number of an applicant for any license or permit issued under this chapter must be recorded on the application unless the applicant is a foreign national to whom no social security number has been issued. A social security number recorded under this section is confidential. ~~Beginning on January 1, 2009,~~
2. As used in this section, "alternate unique identification number" means:
 - a. An operator's license number, nondriver photo identification card number, or instructional permit number issued to the applicant by the department of transportation;
 - b. A hunter education certificate number or other unique number issued to the applicant by the director, if the applicant's social security number is already on file with the director; or
 - c. For any application that is printed in paper form for a resident or nonresident fishing, hunting, or fur-bearer certificate ~~must be printed in a manner so that only~~ the last four digits of the applicant's social security number ~~are recorded on the application, and the first five digits of the applicant's social security number are not recorded on the application.~~

SECTION 2. AGENCY DIRECTIVE. The department of human services shall seek a federal exemption authorizing the state to implement section 1 of this Act.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the game and fish department for the purpose of implementing section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$15,000, or so much of the sum as may be necessary, to the department of human services for

the purpose of implementing section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 5. CONTINGENT EFFECTIVE DATE. Sections 1, 3, and 4 of this Act become effective on the date the department of human services certifies to the game and fish department and the legislative council that the United States department of health and human services has granted the exemption requested in section 2 of this Act, or January 1, 2010, whichever is later."

Renumber accordingly

2009 TESTIMONY

SB 2068

Testimony
Senate Bill 2068 – Department Of Human Services
Senate Natural Resources Committee
Senator Stanley Lyson, Chairman
January 15, 2009

Chairman Lyson, members of the Senate Natural Resources Committee, I am James Fleming, Deputy Director and Chief Legal Counsel of the Child Support Enforcement Division of the Department of Human Services. The Department strongly supports efforts to reduce identity theft, but must regrettably request a "Do Not Pass" recommendation from the committee regarding Senate Bill 2068.

As a condition of receiving federal funds for the Temporary Assistance to Need Families and Child Support Enforcement programs, the state "must have in effect laws requiring the use of the following procedures . . . Procedures requiring that the social security number of – (a) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application." 42 United States Code Section 666(a)(13).

There is limited authority in the federal law for a state to obtain an exemption from this requirement if the state demonstrates "that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program" 42 United States Code Section 666(d).

Last legislative session, in response to similar concerns, we drafted and supported legislation to seek a federal exemption for using only the last four digits of a social security number for certain licenses. The

licenses selected for the exemption were those that were completed at various places of business in North Dakota and stored at the place of business for a significant period of time, instead of being submitted by the applicant directly to the Game and Fish Department (through the mail, in person, or over the Internet). Combined with other information provided on the application, this exemption preserved the effectiveness and efficiency of our current match processes with the Game and Fish Department. As a result, the federal government granted the exemption, which took effect in 2008.

The Department remains willing to request any exemption that can reduce the use of social security numbers yet preserve the effectiveness and efficiency of our existing match process with the Game and Fish Department. In addition to seeking federal confirmation that this legislation as currently drafted would take North Dakota out of compliance with federal requirements, we have asked whether other states have obtained exemptions in this area that provide more protection from identity theft than in current North Dakota law. However, we are unsure what kind of exemption could be requested or approved, and we would invite the committee's guidance in this area.

The Department will continue to monitor this area in the event that an exemption granted to another state appears workable in North Dakota, so appropriate legislation can be prepared.

In conclusion, the Department feels that the State is between a rock and a hard place with this bill as currently drafted: take an additional step to protect against identity theft, or preserve federal funding for

two successful and valuable programs for North Dakota's children. Considering the exemption obtained as a result of the 2007 legislation, the Department respectfully suggests that the better course is to avoid jeopardizing federal funding for the Temporary Assistance to Needy Families and Child Support Enforcement Programs, and for the committee to recommend a "Do Not Pass" on Senate Bill 2068.

Mr. Chairman, this concludes my testimony, and I would be happy to respond to any questions the committee may have.



Cass County
WILDLIFE CLUB
Box 336
Casselton, ND 58012

#2



TESTIMONY OF FOSTER RAY HAGER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE SENATE NATURAL RESOURCES COMMITTEE
on
SB~~2~~068
January 15, 2009

Mr. Chairman and Members of the Committee:

I am Foster Ray Hager speaking on behalf of the Cass County Wildlife Club, an organization of over 200 sportspeople organized to promote conservation of wildlife, to promote sportsmanship in hunting and fishing and to support the proper management of these resources.

We oppose this bill because we feel that the last four digits of the social security number is working now.

If it isn't broken don't fix it.



ND Game and Fish Department Testimony
January 15, 2009
Senate Bill 2068

Senate Bill 2068 requires the Game and Fish Director to issue a distinguishing number to each applicant for a game and fish license or permit which must be recorded on the license applications. It prohibits using a number that contains, can be converted to, or is an encrypted version of the applicants social security number(SSN) unless specifically requested by the applicant.

Currently electronic license buyers and license lottery applicants are required by law to put their SSN on their license applications. The SSN's are checked against a list of those delinquent on child support payments. This list is maintained by the ND Child Support Division. Applicants on this list are rejected and not allowed to receive Game and Fish licenses.

The SSN is also used by the ND Game and Fish Department to track bonus points for hunting license lotteries. If SSN's are no longer available for lottery license applicants, the Department will have to convert to another identification system. If this happens, the Department would probably shift to a system utilizing a drivers license number and hunter safety number. For those who do not have these numbers, we would issue a special Game and Fish identification number. The cost for this switch would be significant. The license lottery system and web licensing are large systems written and maintained by the ND Information Technology Division. It is estimated that the cost of these changes would be \$150,000 to \$200,000.

The SSN is very convenient for Game and Fish to use for licensing purposes. If this number no longer can be used for this, the Department can adjust. We do ask that we be given at least one year to convert the licensing systems. We also ask that the Director not be required("shall issue") to issue a distinguishing number to each applicant. The Department would like to utilize existing numbers like the drivers license number and the hunter education number. It is suggested that the wording be changed to "may issue". Additionally there are some licenses that there is no need to have a special ID number.

North Dakota Sportfishing Congress Testimony

Jan 15, 2009

Senate Bill 2068

Mr. Chairman and members of the committee:

My name is Duaine Ash and I am speaking on behalf of the North Dakota Sportfishing Congress, an organization of fishing clubs from around our great state of North Dakota. Our organization represents fifteen fishing clubs and several hundred individual members.

After much discussion of Senate Bill 2068 with the North Dakota Game & Fish, clubs and individual members, we concur with North Dakota Game & Fish and will support the bill providing the Game & Fish is given sufficient time to implement a program that will address needs of the department and other state agencies.

Thank You