

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

11000

2005 HOUSE NATURAL RESOURCES

HB 1100

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1100

House Natural Resources Committee

- Conference Committee

Hearing Date January 7, 2005

Tape Number

1

Side A

x

Side B

Meter #

0-3465

Committee Clerk Signature

Karen Bonnet

Minutes: Chairman Nelson opened the hearing on HB 1100. Roll taken, Rep. Drovdal absent.

Bill was read aloud.

Paul Schadewald, ND Game & Fish Dept.: WRITTEN TESTIMONY ATTACHED, WITH ATTACHED AMENDMENT. We're asking that this information be made exempt from the open records laws. We aren't here because of a need in the agency, but because of customer feedback that we have had. These are popular lists and are asking for your advice or guidance on whether we should continue to make that information available.

Chr. Nelson: Are there any questions?

Rep. Porter: What is the normal charge for providing that list and is it different for the medium that you provide it in?

Paul Schadewald: It is different for the medium. The electronic medium is the least expensive. We're allowed under current law to charge actual cost, so if somebody wants photocopies of the list it's the photocopy charge. If it's the electronic copy it is very cheap. A vote registration list

costs about \$50 for a list of about 40,000 registered voters. We don't SELL the list. Under our laws it's available at cost.

Rep. Porter: What do other states around us do with hunter lists or voter registration?

Paul Schadewald: I don't know exactly from the states around us. I know there is a mixed bag among the states around the country. Some are protected and some are not but I don't know the proportions.

Rep. Keiser: Does the department have the authority that should a person contact the department and to his name removed from the list that could be done, or would we have to contact everybody that you sell the list to?

Paul Schadewald: I think the computer ability is there. Because we have so many lists it is challenging to code those to be off the list, but I think it can be done.

Chr. Nelson: We've had several bills introduced in past sessions as far as social security numbers on license forms. That social security number is protected isn't it?

Paul Schadewald: Yes, the social security number is protected. There are some problems with that. We're able to protect it when it's in our custody. Some of the paper licenses with agents - it's hard to say how well protected they are. That is slowly changing as more licenses go electronic. Electronic data systems can be protected easier.

Chr. Nelson: Are there any further questions? If not, you may proceed.

Paul Schadewald: The second portion of this bill deals with Game & Fish biological data.

**WRITTEN TESTIMONY INCLUDED ON FIRST TESTIMONY SUBMITTED ABOVE,
with proposed amendments to HB 1100.**

Rep. Porter: Are the digital telemetry protected, or can someone with a digital scanner pick up those signals?

Paul Schadewald: I believe that they are not secure, not protected like some of the radio systems are. Somebody with a scanner could probably find them.

Chr. Nelson: Any further questions?

Rep. Charging: If we were to pass this, would it be unavailable for other state agencies?

Paul Schadewald: The director would have the prerogative to determine which situations that data could be shared.

Rep. Charging: Even after we passed the law that says it's not to be shared?

Paul Schadewald: If we would pass the bill, the information would not be considered confidential. It would be in an exempt category. That category, in certain situations, could be released. We do commonly work with other agencies, Child Support for one, where they're looking for somebody and would use our data list or making someone ineligible for licenses. That would continue.

Chr. Nelson: Any further questions? Rep. Keiser.

Rep. Keiser: On telemetry, that's disturbing. Should there be some penalty if people do this?

Paul Schadewald, ND Game & Fish: I don't think remote hunters would be legal in ND. When is the right time to pass legislation, before or after the fact? We don't do a lot of GPS studies but right now we do have a pronghorn study that will go on for several years. Then we won't do it again for quite awhile.

Chr. Nelson: Are there further questions of Mr. Schadewahl? Further testimony in support of HB 1100?

Bob Schaible, ND Outdoor Heritage Coalition: I can attest to the fact that it's easy to buy a Game & Fish list. I called Paul at the Game & Fish about three years ago and asked if I could buy the list. He said yes. I asked whether I could pinpoint a certain area of the state, like the badlands. He said yes. It cost \$200. They can identify and print and anything you want. The coalition supports this legislation; they think it is important that the information is kept confidential. In certain instances we talked about having access to microwave technology. Now hunters have two-way radios and can discuss whether one saw a deer over the hill.

Chr. Nelson: Any questions for Bob? Seeing none, thank you for your testimony. Is there further support of HB 1100?

Harold Neameyer, Cass Co. Wildlife Club: We are strongly in favor of this bill. **WRITTEN TESTIMONY ATTACHED.**

Chr. Nelson: Any questions of Harold? I have one question. Often when a hunter isn't drawn for an antlered permit and it happens more than once, people think that there is something wrong with the system. There is full disclosure after a draw. Do you think that might be compromised at all if we pass something like this in regard to the customer data?

Neameyer: No. The list is open to anyone who wants to see it.

Chr. Nelson: Any further questions? Is there further support of HB 1100?

Mike Donahue, ND Wildlife Federation & United Sportsmen of ND: We support HB 1100 and urge Do Pass with the amendment.

Chr. Nelson: Any questions for Mr. Donahue? Further testimony in favor of HB 1100? Seeing none, the committee will take opposing views.

Jack McDonald, ND Newspaper Assoc. And ND Broadcasters Assoc.: We are opposed to the bill. We wouldn't support any closing of the records but we understand the reasons for numbers three and four, the telemetry and location and biological data protection and have no opposition to that. Urge do pass as Game & Fish proposed, take out the first two provisions of the bill, the customer data for the reasons in **WRITTEN TESTIMONY ATTACHED**. Proposed amendments on bottom of our testimony.

Rep. Porter: Thinking of other situations used by companies or individuals who have access to my data, wonder what your position would be to opt out of release of my personal data?

Jack McDonald: On principle we would not oppose something like that. We feel this is public information in the sense that people are getting a public permit from a public agency and feel that this information should stay public.

Rep. Porter: Can you enlighten us to the information that is available out of the department of transportation in regards to my driver's license and my vehicle registration?

McDonald: There have a lot of changes and I haven't dealt with them in a couple of years. Some of that information is available, some is not. Due to federal legislation involved in the motor vehicle license area, that emanated out of a situation that happened in California 6-8 years ago, there was federal legislation that mandated that that information be kept confidential.

Rep. DeKrey: Would you be more comfortable with it if we put some kind of statement into this to provide good cause for access to that information?

McDonald: That would be better but is a cumbersome procedure and expensive if you have to go to court to get a court order. It's a very time consuming one to verify when someone wants to use the list. They wouldn't want to wait two months for a court order in order to see the list.

Rep. DeKrey: Should there be a line where my privacy can be protected if someone is just being snoopy?

McDonald: I suppose there is. I don't think a list about the fact that you are going to hunt or fish is as real an invasion of your privacy. Everyone knows you're doing that, you're buying guns, equipment, boats. I'm not sure privacy is being invaded that much on such a list.

Rep. Keiser: Rep. Porter picked up on a question I asked of Paul. Paul said that technology would allow people to opt out. I don't think you really answered it. Do you think people should have the option to opt out if they chose and leave the remaining records public?

McDonald: I wouldn't oppose opting out if it's available and workable and I'm always concerned when you do opt out how it's presented to the individual. Is it promoted or sold or encouraged or simply left out for them to say yes or no. It's like surveys, you can get the answer you want by how you ask the question. The principle of opting out I would not object to.

Nottestad: In Chr. Nelson and Jack, you made reference to the fact that ND has an excellent open meeting law and was placed in the constitution. Do you think that if everyone would have known that it also would have included the selling of lists and selling of information that that would be permitted as well and would they have voted as enthusiastically.

McDonald: Yes, I think they would, because they would weigh all the options and the examples Mr. Neameyer gave. With the interest people have in these records you heard today - I hadn't thought of those reasons. I think there are a lot of reason why people would want to see these records.

Nottestad: I'm more interested in your response pertaining to knowing that someone else could benefit financially from my information.

McDonald: One can benefit financially from almost any public record. You could use that argument on almost anything, real estate licenses, you could go the register of deeds, the county recorders office and you can get copies of who owns land and where, copies of who's transferring property. Public records are public and people can use them for what they may and yes, some will use them for financial gain. I still think people would support the open records laws. The attorney general's office handles opinions on open meetings and open records and almost three quarters of those request come from public citizens who are concerned about meetings being closed. They are not coming from companies using the records and they are not coming from the press, they are coming from everyday citizens.

Rep. Charging: Would you be amenable to knocking out or putting an amendment in that would reduce the commercialization of personal names? I know because I was a state worker and also a journalist that very often these records are utilized for how many voters, how many hunters. There is a lot of good information derived out of these. If we could remove the availability to Cabella's and the commercial uses. (Against the bill.)

McDonald: I understand, this is a difficult problem. It's difficult to estimate legitimacy. You asking for ten records or Cabella asking for 100. Is there a legitimate difference and who is to say that a person could turn around and later sell the records. As Mr. Schaible said his group used them to solicit memberships. The state has wrestled with those issues for years and it's not an easy distinction to make. The Secretary of State, for instance sells UCC filing (security documents) to big companies-banks, Standard and Poores-and they charge them a lot of money.

Rep. Charging: Maybe we need to attach a price, considering the costs of time and expense it takes for the department to do.

McDonald: There is a price now. The agencies are allowed to charge what it costs them in time and materials to produce these records. One of the things Mr. Schadewahl said that with electronic records that time and cost has gone down considerably. You can copy things to a disk and in a couple pushes of the button produce a list as opposed to using a copy machine. I might mention that some states do make money. It's difficult to draw a line between say \$5,000 for Cabella's to get a list and someone else can get it free.

Rep. Charging: Regarding the personal information, is it not just our name and address? It's not our personal information like social security? Basically it's just the information from any phone book, it's just that it identifies us as hunters or fishermen or boaters or guides.

McDonald: That's correct. There are other state laws that protect some of the personal information like social security numbers, TIN numbers. That's all protected by state law now. That wouldn't be affected by this bill.

Chr. Nelson: Jack, are you aware of dual payment schedules in states that do charge fees for their lists? Where citizens would be able to access a list at a lesser cost than a commercial entity?

McDonald: Yes, there is but I am not familiar with how those work. It sounds easy but it's not to run.

Chr. Nelson: Any further questions of Mr. McDonald? Is there further testimony opposing HB 1100? Seeing none, I will appoint a subcommittee to work on this: Rep. Keiser, Charging and Hanson. Would you work on this and see if you can come to some resolution with the amendments that were offered?

With this I close the hearing on HB 1100.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1100

House Natural Resources Committee

Conference Committee

Hearing Date January 14, 2005

Tape Number	Side A	Side B	Meter #
2	x		1175-1515

Committee Clerk Signature *Karen Bonnet*

Minutes: Chairman Nelson opened the hearing on HB 1100 to take action.

Chr. Nelson: There is a proposed amendment to that bill. HB 1100 would exempt from open records some of the hunter and biological information. What is the wish of the committee?

Rep. Hanson: Move to accept the amendment.

Chr. Nelson: Is there a second?

Rep. Hunsakor: Second

Chr. Nelson: Committee discussion.

Rep. Hanson: What it does is remove: **(See attached proposed, written amendment and final amendment)**

Chr. Nelson: Any further questions? Seeing none, I'll call for a voice vote on the amendment.

All those in favor of the amendment signify by saying aye. Opposed? Motion carried.

Rep. DeKrey: Move do pass as amended.

Rep. Solberg: Second

Page 2

House Natural Resources Committee

Bill/Resolution Number HB 1100

Hearing Date January 14, 2005

Chr. Nelson: Rep. DeKrey moves **HB 1100 Do Pass as Amended**. Rep. Solberg seconds. Any committee discussion on the bill?

Rep. Clark: Question.

Chr. Nelson: Question has been called. I'll ask the clerk to call the roll.

Hearing closed

HB 1100: DO PASS AS AMENDED: 13 YEAS - 0 NAYES - 1 ABSENT; Carrier: Hanson

January 14, 2005

VR
1/14/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1100 Nat. Res. 1-17-05

Page 1, line 6, replace "not subject to" with "exempt under"

Page 1, remove lines 7 and 8

Page 1, line 9, replace "2." with "1.", replace "or" with a comma, and after "address" insert ", or electronic mail address"

Page 1, line 11, replace "3." with "2."

Page 1, line 16, replace "4." with "3."

Renumber accordingly

Date: 1/14/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1100

House NATURAL RESOURCES Committee

Check here for Conference Committee

Legislative Council Amendment Number : 58147.0101 Title 0200

Action Taken : Do Pass w. amendments

Motion Made By : DeKrey Seconded By : Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Jon O. Nelson	✓		Rep. Lyle Hanson	✓	
Vice Chairman - Todd Porter	✓		Rep. Bob Hunsakor	✓	
Rep. Dawn Marie Charging	✓		Rep. Scot Kelsh	✓	
Rep. Donald L. Clark	✓		Rep. Dorvan Solberg	✓	
Rep. Duane DeKrey	✓				
Rep. David Drovdal	✓				
Rep. Dennis Johnson	✓				
Rep. George J. Keiser					
Rep. Mike Norland	✓				
Rep. Darrell D. Nottestad	✓				

Total (Yes) 13 No 0

Absent Keiser

Floor Assignment Rep. Hanson

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

REPORT OF STANDING COMMITTEE

HB 1100: Natural Resources Committee (Rep. Nelson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1100 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "not subject to" with "exempt under"

Page 1, remove lines 7 and 8

Page 1, line 9, replace "2." with "1.", replace "or" with a comma, and after "address" insert ", or electronic mail address"

Page 1, line 11, replace "3." with "2."

Page 1, line 16, replace "4." with "3."

Renumber accordingly

2005 SENATE NATURAL RESOURCES

HB 1100

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1100

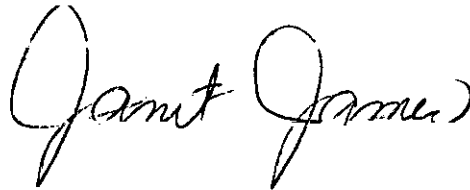
Senate Natural Resources Committee

Conference Committee

Hearing Date February 24, 2005

Tape Number	Side A	Side B	Meter #
1		X	4.8 - 12.3

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened the hearing on HB 1100 to provide for protection of game and fish department records of personal information obtained from the public and records of sensitive biological data.

All members of the committee were present.

Paul Schadewald, Chief of Administrative Division of the North Dakota State Game and Fish Department testified the bill was requested by the department to protect information in two areas (See attached testimony). As technologies advance, they can foresee possible problems in the protection of species and programs.

Senator Michael Every asked if the bill were passed would that mean that if he called the North Dakota State Game and Fish Department and asked the location of a mountain lion, the department could not share that information.

Paul Schadewald denied this stating that the decision would be made if the information was appropriate to be shared as there will be exempt options.

Senator Layton Freborg asked if the department ever sells information.

Paul Schadewald stated they are required to provide copies of information at cost and are commonly requested from all over the world. The house committee solution is to continue to allow access to those kind of records. Names and addresses are passed along in this information but not Social Security numbers or dates of birth.

Harold Neameyer representing the Cass County Wildlife Club testified in support of HB 1100 (See attached testimony).

Mike Donahue of the North Dakota Wildlife Federation and the United Sportsmen of North Dakota testified in support of HB 1100. He asked that an amendment to protect addresses be put back into the bill as was included in the original version of the bill.

Senator Lyson asked for opposing and neutral testimony of HB 1100, hearing non closed the hearing on HB 1100.

Senator Ben Tollefson made a motion for Do Pass of HB 1100.

Senator Rich Wardner second the motion.

Roll call vote for a Do Pass of HB 1100 was taken indicating 7 YEAS, 0 NAYS AND 0

ABSENT OR NOT VOTING.

Senator Tollefson will carry HB 1100.

Date: 2-24-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1100

Senate Senate Natural Resources

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Tollefson

Seconded By

Wardner

Senators	Yes	No	Senators	Yes	No
Senator Stanley Lyson, Chairman	✓		Senator Joel Heitkamp	✓	
Senator Ben Tollefson, Vice Chair	✓		Senator Michael Every	✓	
Senator Layton Freborg	✓				
Senator Rich Wardner	✓				
Senator John Traynor	✓				

Total (Yes)

7

No

0

Absent

0

Floor Assignment

Tollefson

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

REPORT OF STANDING COMMITTEE (410)
February 24, 2005 1:36 p.m.

Module No: SR-34-3595
Carrier: Tollefson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1100, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)
recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1100 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1100

North Dakota Game and Fish Department Testimony
House Bill 1100
January 7, 2005

This bill provides for the exemption of Game and Fish Department customer data and certain biological data from the North Dakota open records laws.

Customer Data – Currently the ND Game and Fish Department, from licensing programs, has names and addresses of over 200,000 people. These involve deer hunter lists, boat registrant list and many other license lists. The Department gets 100+ requests each year for these lists. In compliance with the Open Records Law, these are provided at cost upon request. The lists are normally used for mailing by mail order companies or to recruit memberships in organizations. The Department has received numerous complaints from customers about the release of this information. The Department introduced this bill to make you aware of this situation and provide an opportunity for you to address it.

Game and Fish Biological Data – As a result of field work, the Department has location data on sensitive species. The ones addressed in this bill are pallid sturgeon, bighorn sheep, moose, elk, eagles, sage grouse, prairie chickens, and any species of wildlife listed as threatened or endangered. The Department also uses radio telemetry and global positioning systems to monitor species, den sites, nest locations and other similar data. It is requested that this data be protected.

Note: Attached amendment

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1100

Page 1, line 6, overstrike "not subject to" and insert "exempt under"

Page 1, line 7, insert a comma after "name", overstrike the first "or", and after "address" insert ", or electronic mail address"

Page 1, line 9, insert a comma after "name", overstrike "or", and after "address" insert ", or electronic mail address"

Renumber accordingly

By: Harold Neameyer



Cass County
WILDLIFE CLUB

Box 336
Casselton, ND 58012



**TESTIMONY OF HAROLD NEAMEYER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE HOUSE NATURAL RESOURCE COMMITTEE**

ON

HB 1100

JANUARY 6, 2005

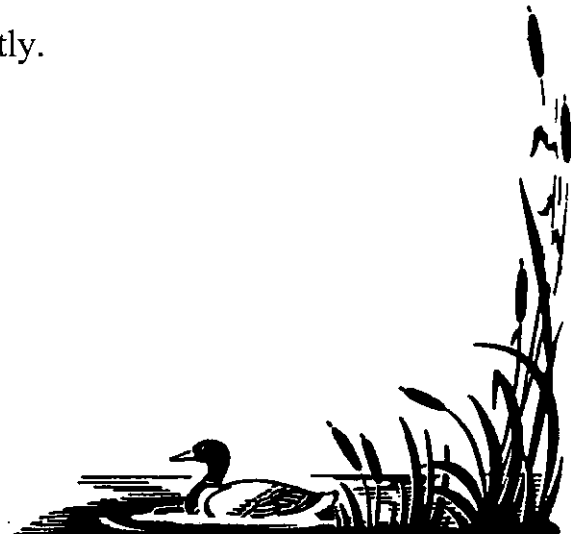
Mr. Chairman and Members of the Committee:

I am Harold Neameyer speaking on behalf of the Cass County Wildlife Club. The Cass County Wildlife Club supports HB 1100 to limit the public release of the information contained in this bill.

As license holders, we do not want unsolicited promotions to buy products or equipment from firms who get our names from these lists.

It is unethical for some to get records of biologists as to locations of highly sought after species, which is possible currently.

Please give a "DO PASS" to HB 1100.



January 7, 2004

HOUSE NATURAL RESOURCES COMMITTEE
HB 1100

CHAIRMAN NELSON AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We oppose Sections One and Two of this bill as unnecessary closure of public records that have been open since statehood. We respectfully request you consider an amendment.

This bill is a classic example of over reaching. It started out to protect electronic information concerning big horn sheep research and other information concerning the location of game and fish. There were concerns that someone would use this information for hunting or fishing. I doubt if this would occur, but it was probably OK.

Now the department has turned this into a major secrecy measure for a great deal of its records. This bill closes any records that identify the names and addresses of any persons applying for any license, certificate, permit, tax, stamp or locking seal. This includes not only traditional hunting and fishing licenses, but also boat licenses and permits, certificates for guides and outfitters, and similar activities. Since a great deal of the department's work concerns the issuing of these licenses, this has the potential of closing many, many records.

North Dakota has one of the finest open records laws in the country. North Dakota citizens were the first in the nation to put open records and open meetings provisions into the state Constitution by statewide overwhelming votes. You as legislators have consistently supported strong open records laws because you know that's what North Dakota citizens want. Approximately 75% of the Attorney General's open meeting/open records opinion requests come from private citizens.

There have not been any problems or abuses regarding these records. They are useful to citizens and private nonprofit groups. During a time when game and fish issues are so controversial, we don't think it's appropriate to put a large portion of the department's records under lock and key.

Therefore, we respectfully request your favorable consideration of the amendment listed below. If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

PROPOSED AMENDMENTS TO HB 1100

Page 1, remove lines 7 through 10
Page 1, line 11, replace "3" with "1"
Page 1, line 16, replace "4" with "2"
Renumber accordingly

Paul Schadewald

North Dakota Game and Fish Department Testimony
House Bill 1100
February 24, 2005

This bill provides for the exemption of Game and Fish Department survey participant data and certain biological data from the North Dakota open records laws. Two categories of information are involved.

Customer Data From Harvest Surveys – Section one of this bill makes customer survey information exempt from open records requirements and allows the Department to protect this information. The original version of this bill allowed for protection of all game and fish customer information. This was discussed in the House and this compromise was reached.

Game and Fish Biological Data – As a result of field work, the Department has location data on sensitive species. The ones addressed in this bill are pallid sturgeon, bighorn sheep, moose, elk, eagles, sage grouse, prairie chickens, and any species of wildlife listed as threatened or endangered. The Department also uses radio telemetry and global positioning systems to monitor species, den sites, nest locations and other similar data. It is requested that this data be protected. Sections two and three of the bill do this.



Cass County
WILDLIFE CLUB

Box 336
Casselton, ND 58012



TESTIMONY OF HAROLD NEAMEYER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE SENATE NATURAL RESOURCES COMMITTEE
ON

HB 1100
February 24, 2005

Mr. Chairman and Members of the Committee:

The CCWC supports HB 1100. It is necessary for any information about selected species to be protected. This bill grants that protection.

It is also acceptable that wildlife harvest survey names are protected.

Please support this bill to help North Dakota Game and Fish keep selected information confidential.

