

SJR 38 Work Group Session Notes, November 21, 2005

- Prior to the start of the meeting Steve Turkiewicz called Dean Roberts of the Motor Vehicle Decision and reported that MVD as of October 1, 2005, no longer will allow the use of Social Security Numbers (SSNs) on driver's licenses at renewal even if requested, following federal laws limiting display of SSNs. Anyone with a social security number on any type of driver's license can get a new license without SSN for a \$10 replacement charge. A non-SSN will be used on all new and renewed licenses.
- Amy Pfeifer of the Child Support Enforcement Division gave an overview of the history of Social Security number usage as related to the child support provisions of federal law. The main options for exemptions are to show either that 1) existing procedures are efficient and effective and that using SSNs would not increase the ability to track the location or income/assets of someone owing child support or 2) that an alternate mechanism exists that would indicate a broader data base than that provided by SSNs (Alaska's use of its permanent fund disbursement, for example). Contingent language remains intact so that no new statutory changes would be needed if the federal government grants an exemption. The Department of Public Health and Human Services can apply for an exemption, which will require determining the appropriate approach. Montana's 2001 effort was denied.
- Connie Welsh described the complexities of administering the state's largest employer benefit plan with 35,000 lives and 8 vendors, including some self-insurance, some prescription drug plans and various insurers. The SSN is used currently to make sure that employees who switch among plans are tracked from place to place, insurer to insurer. Blue Cross Blue Shield is moving to a system, Q-Next, that does not use SSNs and the state will be moving in that direction. A group of large employers, which forms a large employer purchasing pool, met October 27 and agreed to work together on the transition to a non-SSN system.
- The group discussed public display of SSNs, particularly by government. Amy Pfeiffer pointed out the requirements of the Privacy Act of 1974, which says that when any federal, state, or local government agency requests an individual to disclose his/her Social Security number, that individual must also be advised whether disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and what uses will be made of it. The group said legislation may not be needed but that an executive order, a legislative audit or educational outreach might help limit the public display or use of SSNs. Claudia Clifford provided a model act drafted by Consumers Union that included reference to social security number displays/uses. (see below) The group suggested trying to determine how many agencies use a SSN, why they want it and do they need to have it.

- ✓ The work group voted to ask the Economic Affairs Committee to write a letter to the Department of Public Health and Human Services to investigate the appropriate approach to request a federal exclusion from the requirement to gather SSNs on applications for recreational licenses and to apply for an exclusion.
- ✓ The work group also voted to ask the Economic Affairs Committee to write a letter to elected officials asking them to determine whether their agencies are following federal law under the Privacy Act of 1974, 5 U.S.C. 522a (noncodified note) regarding the use of SSNs (see above). The letter also should include that every state agency might want to provide in its strategic plan for information technology a plan for the security of social security numbers. The group also suggested that local governments and educators be included in this outreach. The work group also will look at legislation proposed by Consumers' Union regarding social security number protection (on page 21 of the Model State Clean Credit and Identity Theft Protection Act in the March 9, 2005 handout and pp. 25-26 in the November 2005 version available at: http://www.consumersunion.org/pub/core_financial_services/001732.html. There also was a suggestion that a legislative audit might look at state/local government use of SSNs.
- ✓ The work group suggested advising the Economic Affairs Committee that the work group considers it important for any consumer protection law to apply to government, including education, although penalties may need adjusting. Consistency in laws is important.
- On security freeze issues, the work group divided into another work group to review recommendations to be made to the Economic Affairs Committee. This work group will meet Dec. 9 at 10 a.m. and will seek consensus on various issues as well as list each entity's concerns on areas of dispute.
- On education, Pam Bucy of the AG's office noted various training sessions for law enforcement and county attorneys and the importance of expanding the Consumer Protection Office staff and providing consistent funding (the office has operated off the proceeds of nationwide lawsuits, which Montana has joined as a party but until the proceeds are paid out the office has no consistent budget).
- ✓ The work group agreed to recommend to the Economic Affairs Committee that funding of education and enforcement needs be made available as an ID theft prevention effort. Education is for both consumers and businesses regarding prevention of ID theft and how to implement already enacted statutes.
- Bringing in new speakers may not be necessary on SJR 38 prevention issues, although this somewhat depends on the security freeze discussions Dec. 9.
- The Montana University System people are working on ID theft/data breach issues and are monitoring the work on SJR 38.

- Pam Bucy noted that the penalty section of the ID theft statute may need to be revised to delete the reference to economic harm because cases are arising where economic harm is not a factor but identity theft is involved.
- The next full work group will be Jan. 9 at 9:30 a.m. in Room 102 of the Capitol. Topics for discussion include:
 - ▶ privacy vs. right-to-know (are there any state laws that need strengthening, clarifying?)
 - ▶ data storage and disposal
 - ▶ 3rd party marketing (who owns the data?)
 - ▶ storage of credit card numbers on the Internet. (This one was requested by Rep. McGillvray.)

REMINDER -- The work group on security freezes includes the following people who will meet Dec. 9 in Room 102 of the State Capitol at 10 a.m. Coffee and cookies promised.

Pam Bucy	Jacqueline Lenmark
Claudia Clifford	Amy Pfeifer
Keith Colbo	Bob Pyfer (you can thank Jill for this)
Riley Johnson	Barbara Ranf
Jim Kembel	Steve Turkiewicz

Those attending the 11-21-05 work group were:

Larry Kibbee, PCI
 Mike Boyer, DOA ITSD
 Barbara Ranf, Montana Chamber of Commerce
 Steve Beckham, Liberty Mutual
 Pam Bucy, DOJ
 Steve Turkiewicz, Montana Bankers Association
 Keith Colbo, Montana Independent Bankers
 Amy Pfeifer, Child Support Enforcement Division
 Claudia Clifford, AARP Montana
 Connie Welsh, DOA EBB
 Geoff Feiss, Montana Telecommunications Association
 Diane Rice, HD 71 House Judiciary Chair
 Tanya Ask, Blue Cross Blue Shield of Montana
 Jacqueline Lenmark, American Insurance Association, American Council of Life Insurers
 Riley Johnson, NFIB
 Greg Van Horssen, State Farm Insurance Co.
 Jill Jarman, Montana's Credit Unions
 Jim Kembel, MPPA/MACOP