

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2248

2005 SENATE JUDICIARY

SB 2248

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248

Senate Judiciary Committee

Conference Committee

Hearing Date January 31 , 2005

Tape Number	Side A	Side B	Meter #
1	X		0.0 2040
Committee Clerk Signature <i>Maria Z Solberg</i>			

Minutes: Relating to criminal history records checks.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Sen. Randy Christmann, Dist #33 - Introduced the bill at the request of the Attorney Generals office. The century code has several references to background checks. The idea is to put them all in one chapter. This also gives BCI the ability to conduct nation wide background checks.

This bill also changes the fee amount from \$30 to \$15.

Sandi Tabor - Deputy Attorney Generals Office. Att. #1 This is bill is simple the above three things (meter 150) Sandi gave more detail to the three above statements. Compared State background checks with Federal background checks. Did not change any "confidentiality" parts.

Boy scout background check will be raised from \$3 to \$5. Submitted Amendment Att #1b

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Senate Judiciary Committee

Bill/Resolution Number SB 2248

Hearing Date January 31, 2005

Sen. Trenbeath asked how long it takes for a state background check- two days discussed costs.

Sen. Nelson asked why it was so difficult to do a teachers background check only once a year

Judy Volk, Criminal Records Supervisor at the Bureau of Criminal Investigation. Fingerprints are done electronically and the turn around is usually two days. Discussed with her the process (meter 800) State check and a federal check involving the running of finger prints.

Sen. Trenbeath asked how would this fee change would help the Catholic Church. No, they have already done all of their background checks.

Bill Butcher, V Chair of ND Private Investigators Board. (meter 1214) We approve of the reduction of fees. The government should not be in the business of making money.

Sen. Traynor asked if would help if we hurried the process to save money sooner. He responded yes.

Testimony Neutral the Bill:

Darleen Bartz, ND Dept. of Health - (meter 1570) Gave Testimony - Att #2.

There was no testimony in opposition to Bill.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248

Senate Judiciary Committee

Conference Committee

Hearing Date February 2 , 2005

Tape Number	Side A	Side B	Meter #
2	X		0.0 - 430
Committee Clerk Signature <i>Maria L. Salberg</i>			

Minutes: Relating to criminal history records checks.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The committee opened with the following:

Sandi Tabor, Deputy Attorney General's Office (meter 200) Submitted Amendment - Att. #1 and a second amendment Att. #1b. The committee spoke of certifications that will be coming up for other organizations. Ms. Tabor stated that it would be appropriate to pass this bill for today's business. There have been many times a potential requirement has never come to fruition.

Senator Triplett discussed that the time line for this left us time to address this next session for the employees in the department of health: specifically; bioterrorism /homeland security and nurses aids'.

Committee discussed if they needed an emergency clause.

Senator Syverson made the motion to do pass the two amendments and add an emergency clause, seconded by **Sen. Nelson**. All were in favor, motion passes.

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Senate Judiciary Committee

Bill/Resolution Number SB 2248

Hearing Date February 2, 2005

Motion made to Do Pass as amended three times by **Sen. Trenbeath** and seconded by **Senator**

Triplett. All were in favor motion passes.

Carrier: **Senator Hacker**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

FISCAL NOTE
Requested by Legislative Council
03/09/2005

Amendment to: Reengrossed
SB 2248

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	(\$27,446)	\$0	(\$350,856)	\$0	(\$373,440)	\$0
Expenditures	\$0	\$0	\$8,100	\$0	\$8,100	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill changes the fee structure for criminal history record checks processed by the Bureau of Criminal Investigation (BCI) by changing the fees for a state criminal history record check and instituting a separate fee for processing fingerprint cards necessary for federal criminal history record checks. Under the current proposal, entities conducting both a state and federal criminal history record check would continue to pay a total of \$30, the amount that is currently charged for those services. However, a reduced fee of \$15 would be assessed when only a state record check is conducted. All fees charged by the state go to the general fund.

This bill also proposes to allow 6 additional entities (items 12-60-24 (2) (i, j, k, l, m, and n)) to conduct fingerprint based federal criminal history record checks amounting to an estimated 270 additional record checks for the 2005-2007 biennium. The same estimated number was used for the 2007-2009 biennium. Revenue increases for this activity would amount to \$8,100 per biennium. Because of the time necessary for the implementation process with the FBI for new entities requesting federal criminal history records checks, we do not expect additional revenue during the remainder of the 2003-2005 biennium for these 6 additional entities.

Because the bill proposes to decrease the fee for the majority of the state criminal history record checks conducted by BCI, we believe there may be an increased number of record checks requested. We do not have a way to estimate this possible impact and, therefore, could not factor it into the fiscal analysis.

The number of state criminal history record checks has been increasing each year. Conservative estimates were calculated for the number of record checks per biennium based on the increases each year for calendar years 2001 through 2004. These estimates were factored into the fiscal analysis.

This bill will also allow state record checks to be conducted at a reduced fee of \$5 for volunteers providing services for nonprofit organizations that are organized and operated in this state exclusively for charitable purposes for the exclusive benefit of vulnerable elderly adults. While we do not have a way to determine how many state record checks will be eligible for the reduced fee, at this time we believe that the language will only affect a limited number of nonprofit organizations.

Impacts to Counties, Cities, and School Districts: For counties and cities that have an ordinance or resolution in place

allowing a fingerprint based federal criminal history check for applicants in specified occupations, under this bill the total fees paid remains \$30. There would be no fiscal impact.

For any counties, cities, or school districts that conduct state criminal history records checks only, the fee for each record check would be reduced from \$30 to \$15. Because we cannot estimate the number of state criminal history record checks conducted by these entities, we cannot calculate the fiscal impact except to indicate that they will be paying half as much as they do currently.

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.*

Increased revenue is estimated totaling \$8,100 per biennium based on a total of 270 additional state and federal criminal history record checks conducted for 6 new entities.

The vast majority of the record checks conducted are North Dakota criminal history record checks only. The fee for a state only record check is reduced from \$30 to \$15 dollars. This results in decreased general fund revenue of an estimated estimated \$13,723 per month (or a total of \$27,446) for the remainder of the 2003-2005 biennium, \$14,619 per month (or a total of \$350,856) for 2005-2007, and \$15,560 per month (or a total of \$373,440) for 2007-2009.

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.*

Estimated costs for processing a total of 270 additional state and federal criminal history record checks for 6 new entities is \$30 per check or a total of \$8,100 per biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The workload of 270 additional state and federal criminal history record checks can be absorbed by existing staff. No additional appropriation is necessary.

Name:	Judy Volk / Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-5500 328-3622	Date Prepared:	03/09/2005

FISCAL NOTE
 Requested by Legislative Council
 02/17/2005

Amendment to: Engrossed
 SB 2248

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	(\$27,446)	\$0	(\$350,856)	\$0	(\$373,440)	\$0
Expenditures	\$0	\$0	\$8,100	\$0	\$8,100	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill changes the fee structure for criminal history record checks processed by the Bureau of Criminal Investigation (BCI) by changing the fees for a state criminal history record check and instituting a separate fee for processing fingerprint cards necessary for federal criminal history record checks. Under the current proposal, entities conducting both a state and federal criminal history record check would continue to pay a total of \$30, the amount that is currently charged for those services. However, a reduced fee of \$15 would be assessed when only a state record check is conducted. All fees charged by the state go to the general fund.

This bill also proposes to allow 6 additional entities (items 12-60-24 (2) (i, j, k, l, m, and n)) to conduct fingerprint based federal criminal history record checks amounting to an estimated 270 additional record checks for the 2005-2007 biennium. The same estimated number was used for the 2007-2009 biennium. Revenue increases for this activity would amount to \$8,100 per biennium. Because of the time necessary for the implementation process with the FBI for new entities requesting federal criminal history records checks, we do not expect additional revenue during the remainder of the 2003-2005 biennium for these 6 additional entities.

Because the bill proposes to decrease the fee for the majority of the state criminal history record checks conducted by BCI, we believe there may be an increased number of record checks requested. We do not have a way to estimate this possible impact and, therefore, could not factor it into the fiscal analysis.

The number of state criminal history record checks has been increasing each year. Conservative estimates were calculated for the number of record checks per biennium based on the increases each year for calendar years 2001 through 2004. These estimates were factored into the fiscal analysis.

This bill will also allow state record checks to be conducted at a reduced fee of \$5 for volunteers providing services for nonprofit organizations that are organized and operated in this state exclusively for charitable purposes for the exclusive benefit of vulnerable elderly adults. While we do not have a way to determine how many state record checks will be eligible for the reduced fee, at this time we believe that the language will only affect a limited number of nonprofit organizations.

Impacts to Counties, Cities, and School Districts: For counties and cities that have an ordinance or resolution in place

allowing a fingerprint based federal criminal history check for applicants in specified occupations, under this bill the total fees paid remains \$30. There would be no fiscal impact.

For any counties, cities, or school districts that conduct state criminal history records checks only, the fee for each record check would be reduced from \$30 to \$15. Because we cannot estimate the number of state criminal history record checks conducted by these entities, we cannot calculate the fiscal impact except to indicate that they will be paying half as much as they do currently.

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.*

Increased revenue is estimated totaling \$8,100 per biennium based on a total of 270 additional state and federal criminal history record checks conducted for 6 new entities.

The vast majority of the record checks conducted are North Dakota criminal history record checks only. The fee for a state only record check is reduced from \$30 to \$15 dollars. This results in decreased general fund revenue of an estimated estimated \$13,723 per month (or a total of \$27,446) for the remainder of the 2003-2005 biennium, \$14,619 per month (or a total of \$350,856) for 2005-2007, and \$15,560 per month (or a total of \$373,440) for 2007-2009.

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.*

Estimated costs for processing a total of 270 additional state and federal criminal history record checks for 6 new entities is \$30 per check or a total of \$8,100 per biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The workload of 270 additional state and federal criminal history record checks can be absorbed by existing staff. No additional appropriation is necessary.

Name:	Judy Volk	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-5500	328-3622	Date Prepared:	02/17/2005

FISCAL NOTE

Requested by Legislative Council

02/07/2005

Amendment to: SB 2248

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	(\$27,446)	\$0	(\$350,856)	\$0	(\$373,440)	\$0
Expenditures	\$0	\$0	\$8,100	\$0	\$8,100	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill changes the fee structure for criminal history record checks processed by the Bureau of Criminal Investigation (BCI) by changing the fees for a state criminal history record check and instituting a separate fee for processing fingerprint cards necessary for federal criminal history record checks. Under the current proposal, entities conducting both a state and federal criminal history record check would continue to pay a total of \$30, the amount that is currently charged for those services. However, a reduced fee of \$15 would be assessed when only a state record check is conducted. All fees charged by the state go to the general fund.

This bill also proposes to allow 6 additional entities (items 12-60-24 (2) (i, j, k, l, m, and n)) to conduct fingerprint based federal criminal history record checks amounting to an estimated 270 additional record checks for the 2005-2007 biennium. The same estimated number was used for the 2007-2009 biennium. Revenue increases for this activity would amount to \$8,100 per biennium. Because of the time necessary for the implementation process with the FBI for new entities requesting federal criminal history records checks, we do not expect additional revenue during the remainder of the 2003-2005 biennium for these 6 additional entities.

Because the bill proposes to decrease the fee for the majority of the state criminal history record checks conducted by BCI, we believe there may be an increased number of record checks requested. We do not have a way to estimate this possible impact and, therefore, could not factor it into the fiscal analysis.

The number of state criminal history record checks has been increasing each year. Conservative estimates were calculated for the number of record checks per biennium based on the increases each year for calendar years 2001 through 2004. These estimates were factored into the fiscal analysis.

Impacts to Counties, Cities, and School Districts: For counties and cities that have an ordinance or resolution in place allowing a fingerprint based federal criminal history check for applicants in specified occupations, under this bill the total fees paid remains \$30. There would be no fiscal impact.

For any counties, cities, or school districts that conduct state criminal history records checks only, the fee for each record check would be reduced from \$30 to \$15. Because we cannot estimate the number of state criminal history record checks conducted by these entities, we cannot calculate the fiscal impact except to indicate that they will be paying half as much as they do currently.

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.

Increased revenue is estimated totaling \$8,100 per biennium based on a total of 270 additional state and federal criminal history record checks conducted for 6 new entities.

The vast majority of the record checks conducted are North Dakota criminal history record checks only. The fee for a state only record check is reduced from \$30 to \$15 dollars. This results in decreased general fund revenue of an estimated estimated \$13,723 per month (or a total of \$27,446) for the remainder of the 2003-2005 biennium, \$14,619 per month (or a total of \$350,856) for 2005-2007, and \$15,560 per month (or a total of \$373,440) for 2007-2009.

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.

Estimated costs for processing a total of 270 additional state and federal criminal history record checks for 6 new entities is \$30 per check or a total of \$8,100 per biennium.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The workload of 270 additional state and federal criminal history record checks can be absorbed by existing staff. No additional appropriation is necessary.

Name:	Judy Volk / Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-5500 328-3622	Date Prepared:	02/08/2005

FISCAL NOTE
 Requested by Legislative Council
 01/19/2005

Bill/Resolution No.: SB 2248

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$350,856)	\$0	(\$373,440)	\$0
Expenditures	\$0	\$0	\$7,500	\$0	\$7,500	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill changes the fee structure for criminal history record checks processed by the Bureau of Criminal Investigation (BCI) by changing the fees for a state criminal history record check and instituting a separate fee for processing fingerprint cards necessary for federal criminal history record checks. Under the current proposal, entities conducting both a state and federal criminal history record check would continue to pay a total of \$30, the amount that is currently charged for those services. However, a reduced fee of \$15 would be assessed when only a state record check is conducted. All fees charged by the state go to the general fund.

This bill also proposes to allow 5 additional entities (items 12-60-24 (2) (i, j, k, l and m)) to conduct fingerprint based federal criminal history record checks amounting to an estimated 250 additional record checks for the 2005-2007 biennium. The same estimated number was used for the 2007-2009 biennium. Revenue increases for this activity would amount to \$7,500 per biennium.

Because the bill proposes to decrease the fee for the majority of the state criminal history record checks conducted by BCI, we believe there may be an increased number of record checks requested. We do not have a way to estimate this possible impact and, therefore, could not factor it into the fiscal analysis.

The number of state criminal history record checks has been increasing each year. Conservative estimates were calculated for the number of record checks per biennium based on the increases each year for calendar years 2001 through 2004. These estimates were factored into the fiscal analysis.

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.*

Increased revenue is estimated totaling \$7,500 per biennium based on a total of 250 additional state and federal criminal history record checks conducted for 5 new entities.

The vast majority of the record checks conducted are North Dakota criminal history record checks only. The fee for a state only record check is reduced from \$30 to \$15 dollars. This results in decreased general fund revenue of an

estimated \$14,619 per month (or a total of \$350,856) for 2005-2007 and \$15,560 per month (or a total of \$373,440) for 2007-2009.

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.*

Estimated costs for processing a total of 250 additional state and federal criminal history record checks for 5 new entities is \$30 per check or a total of \$7,500 per biennium.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The workload of 250 additional state and federal criminal history record checks can be absorbed by existing staff. No additional appropriation is necessary.

Name:	Judy Volk/Kathy Roll	Agency:	Office of Attorney General/BCI
Phone Number:	701-328-5500	Date Prepared:	01/21/2005

Date: 2/2/05

Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2248

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended 2X + add Emergency

Motion Made By Sen. Syverson Seconded By Sen Nelson

Senators	Yes	No	SenatorsSen. Nelson	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 2/2/05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2248

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended 3 times

Motion Made By Sen. Trenbeath Seconded By Sen Triplett

Senators	Yes	No	Senators	Sen. Nelson	Yes	No
Sen. Traynor	✓		Sen. Nelson		✓	
Senator Syverson	✓		Senator Triplett		✓	
Senator Hacker	✓					
Sen. Trenbeath	✓					

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Hacker

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

REPORT OF STANDING COMMITTEE

SB 2248: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2248 was placed on the Sixth order on the calendar.

Page 1, line 4, after "checks" insert "; and to declare an emergency"

Page 3, line 19, replace "or" with an underscored comma and after "employee" insert ", or petitioner for adoption"

Page 5, after line 22, insert:

"n. The department of health for employees assigned duties related to bioterrorism and homeland security issues as designated by the state health officer; a nurse aide seeking to have a finding of neglect removed from the nurse aide registry; or an applicant for a license, certificate, or registration in a health-related field or other individual being investigated by the department of health who holds a license, certificate, or registration in a health-related field."

Page 10, after line 2, insert:

"SECTION 12. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2005 SENATE APPROPRIATIONS

SB 2248

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. ~~2213~~ 2248

Senate Appropriations Committee

Conference Committee

Hearing Date February 11, 2005

Tape Number	Side A	Side B	Meter #
2,248	a		142
Committee Clerk Signature <i>Mike</i>			

Minutes:

Chairman Holmberg opened the hearing on SB 2248.

Sandy Tabor, Deputy Attorney General, provided testimony on SB 2248 which deals with criminal history record checks. She indicated that work had been done as to the cost of background checks and what had been done was in error. In section 3, it indicates we will impose a fee of \$15 for each state record check rather than \$30 and a fee of \$5 will be imposed for non-profits working exclusively for minors. It also provides new language stating a \$15 fee for processing fingerprints necessary for the nationwide check. The fiscal note is a minus \$350,000 because of the statewide checks and the drop in the fee. An amendment that Senator Andrist requested dealing with a \$5 fee for a small class of people.

Questions were raised clarifying what the fees are, the process of checking on fingerprints, who pays what on fees, and reasons for writing the bill as it was for non-profits.

Senator Andrist indicated he had become aware of this through an outreach worker in Fargo indicating they did not have the money to pay the fees for criminal checks and this is the reason for the amendment.

Questions were raised as to alternative reasons for obtaining criminal checks and whether the two amendments would exclude one another.

Chairman Holmberg indicated we may want to run this by the legal staff to make sure there is no cancellation of the provisions of the amendments.

Chairman Holmberg closed the hearing on SB 2248.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248

Senate Appropriations Committee

Conference Committee

Hearing Date **02/11/05**

Tape Number	Side A	Side B	Meter #
1		x	4,249-5590
Committee Clerk Signature 			

Minutes: **Chairman Holmberg** opened discussion on SB 2248.

Sen. Andrist moved the amendments, he also explained them by reading the aloud. This amendment was considered friendly by Sandy Tabor.

Sen. Mathern; What is there was an organization that provided both services for minors and elderly adults, this does not address that it says you have to be exclusive.

Sen. Andrist: I thought Sen. Mathern raised and interesting question when he first raised it. Sandy did some checking and said that they were satisfied. The bill will do what it is intended to do.

A voice vote was taken, the amendments were accepted. A **DO PASS as AMENDED** motion was made by Sen. Andrist, seconded by Sen. Fischer. The bill carried 14 to 0, with one absent. A member of the Judiciary will carry the bill.

Chairman Holmberg closed meeting on SB 2248.

Date 2-14-05
 Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2248

Senate SENATE APPROPRIATIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number 2248

Action Taken Do Pass As Amended

Motion Made By A Seconded By Fisch

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	✓		SENATOR KRAUTER	✓	
VICE CHAIRMAN BOWMAN	✓		SENATOR LINDAAS	✓	
VICE CHAIRMAN GRINDBERG	✓		SENATOR MATHERN	✓	
SENATOR ANDRIST	✓		SENATOR ROBINSON	✓	
SENATOR CHRISTMANN	✓		SEN. TALLACKSON	✓	
SENATOR FISCHER	✓				
SENATOR KILZER	✓				
SENATOR KRINGSTAD	✓				
SENATOR SCHOBINGER	✓				
SENATOR THANE					

Total (Yes) 14 No 0

Absent 1

Floor Assignment (Jud) Lindaas

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

Just Holm will tell me

REPORT OF STANDING COMMITTEE

SB 2248, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2248 was placed on the Sixth order on the calendar.

Page 3, line 10, after the period insert "The bureau shall impose a fee of five dollars for each record check conducted on a volunteer providing services for a nonprofit organization that is organized and operated in this state exclusively for charitable purposes for the exclusive benefit of vulnerable elderly adults."

Renumber accordingly

2005 HOUSE JUDICIARY

SB 2248

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248

House Judiciary Committee

Conference Committee

Hearing Date 3/7/05

Tape Number	Side A	Side B	Meter #
1	xx		0-16.5
1		xx	32-33.7
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 14 members present.

Chairman DeKrey: We will open the hearing on SB 2248.

Sandi Tabor, Deputy Attorney General, AG's Office: Support, explained bill (see written testimony).

Representative Delmore: We've had other bills this session, where some of our constituents have found problems in background checks, where they thought they were doing way more than they are, how thorough, if you could explain just a little bit more on the state check, as well as the other check that you talked about. How many years do we go back, do we look at records from other states, and so on. Obviously, a state record would probably not be looking at information from anywhere else. If I really want to get background history on somebody who has been in ND a short period of time, will this do it for me.

Sandi Tabor, AG's Office: I'm going to let Judy come up to answer part of that. She can go over everything. Let me give you a broad overview. I think what happens out there, and I have

some familiarity with one of the bills, that I believe this committee heard earlier in the session. Part of the problem is that people go onto the Internet and they get a pop-up that says, find out anything you want about anybody. What they are accessing are public records. They are not accessing systems like ours, because you can only let identified entities access, and it's very restricted. There aren't many who get access to the BCI database, or the FBI database. Part of the problem is that people come in, they ask for these things, and they think they're getting the world and they're not. They really don't have anything to do with BCI or the Feds. I think that is one of the biggest issues. But then beyond that, to answer your specific question, I'll have Judy come up and tell you. I believe they go back one year.

Judy Volk, Criminal History Records Supervisor, BCI: Your question about how far back we go, we can release any information on a conviction as far back as our records allow us, meaning as far back as there is information, probably back to the 40's-50's. So there are no restrictions, if it is a conviction, we can release anything. If they have the arrest information and the disposition information, we can release it, if there is no disposition we can release it for up to a year. If there's an arrest, no conviction information available, we can only release that up to a year, from the arrest date.

Representative Delmore: If someone wants to go back and find out information on someone who is going to be working with children, you can provide that information to him. Are there certain restrictions on who can get that information.

Judy Volk: If you wanted to do a background on someone, you would need to provide the full name, including any alias names, like a nickname, for example; date of birth, social security number, and a waiver from that person, or the current mailing address, because we are required

to provide information to the individual that their record has been released. There are other items of information you could provide as well. If you didn't have the social security number, for example, if you want to do a background check, you could send us a set of fingerprints. Of course, the person would need to agree to have your background done, if you were going to submit fingerprints.

Representative Delmore: Part of this is also for protection.

Judy Volk: Yes.

Representative Koppelman: When you talked about the general checks that people do on line, and that most of those just gather public information. Are conviction records public information, could they get that kind of information through that kind of a check, and if not, how could they.

Judy Volk: The State Criminal History Record system is an exemption from the Open Records Law, so no they can't get our conviction information, they may be able to get conviction information from the courts.

Sandi Tabor: Theoretically, they could get information from the courts, but I actually don't think that there's any good direct online assistance from the courts at this time, none that I know of anyway. Other states may be different, every state has different laws about what's open and what's not, which is part of the way these people are able to collect the data that they collect.

Representative Koppelman: We have been a state that has been very open, historically as far as open meetings, open records and so on. I think there are good reasons for exempting a lot of things, and we've had a lot of bills even this session that do that; why though would be exempt

criminal history. If someone wants to know if somebody is convicted of a crime, through the court system, why have we exempted that.

Sandi Tabor: I assume that part of it is this whole thing about accuracy of the records themselves, making sure that when, part of what Judy does is she makes sure, and part of our amendment clarifies it even more so, when you're asking about someone, you're going to find out about that person and not five different people with the same name. We had a situation last year in Fargo, where the person wouldn't give us all those identifiers, and yet we were having a hard time giving him any background information because we couldn't figure out which person they were asking about. Part of it is how they are used. I think when you're looking for a background check on a daycare provider, you want to make sure that you're getting that specific information and I assume that part of these restrictions are the requirement to make sure that you have the correct person.

Representative Koppelman: You were talking about the different, on page 4, you showed the cross-referencing and the different types of entities that could request this. What about areas where, I don't see them listed, an applicant for a job, an employer wants a background check, or an applicant to rent an apartment.

Sandi Tabor: On page 4 are the entities who can get federal background check information, get state and FBI. The people who have jobs, do what Judy said, they call and say they would like background on George and here is the SS#.

Representative Charging: You said you had expected a lot more of those checks. How many checks do we do, process through the state.

Judy Volk: Are you wanting the state.

Representative Charging: How much burden is there.

Judy Volk: With the new items. Present numbers we do about 1250 record checks per month.

Representative Charging: Do you see that increasing.

Judy Volk: Yes, it has increased.

Representative Charging: Then the partner to that in the FBI, how many do you see.

Judy Volk: The FBI checks, in 2004, of those we have about 130 per month that are state and federal, of those 1250 that we do per month.

Representative Delmore: You alluded to the fiscal note. Will this be changed or is this correct.

Sandi Tabor: The fiscal note, what date is on your fiscal note.

Representative Delmore: I have one dated 2/7 and 2/17.

Sandi Tabor: The fiscal note you have is the fiscal note with the amendments from the Senate. But I don't think it includes the \$6,000 because we weren't aware of that until very recently, when Judy brought it to our attention. What you have is accurate and won't change, even if you amend the bill to take off what we want, it would still be the fiscal note.

Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. We will close the hearing.

(Reopened in the afternoon session).

Chairman DeKrey: What are the committee's wishes in regard to SB 2248.

Representative Meyer: I move the AG's amendments dated 3/7/05.

Representative Maragos: Seconded.

Page 6
House Judiciary Committee
Bill/Resolution Number SB 2248
Hearing Date 3/7/05

Chairman DeKrey: Motion carried.

Representative Delmore: I move a Do Pass as amended.

Representative Maragos: Seconded.

13 YES 0 NO 1 ABSENT

DO PASS AS AMENDED CARRIER: Rep. Galvin

Date: 3/7/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2248

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended + Rerefer to Approps.

Motion Made By Rep. Delmore Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	✓				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	A				
Representative Kretschmar	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Galvin

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

REPORT OF STANDING COMMITTEE

SB 2248, as reengrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2248 was placed on the Sixth order on the calendar.

Page 6, line 2, remove "applicant for a license, certificate, or registration in a"

Page 6, line 3, remove "health-related field or other"

Renumber accordingly

*9-15-05
No House
Appropriations records found*

2005 TESTIMONY

SB 2248

AH #1

Testimony on SB 2248

Sandi Tabor

Deputy Attorney General

January 31, 2005

Mr. Chairman and members of the committee I am here today in support of Senate Bill 2248. This bill was introduced by Senator Christmann at the request of Attorney General Stenehjem.

Senate Bill 2248 accomplishes three things in 10 pages. First, it consolidates the authority to conduct criminal history background checks into §12-60-24. Second, the bill authorizes the Bureau of Criminal Investigation (BCI) to conduct state and federal background checks on individuals entering certain law enforcement training schools, employees of the Public Employees Retirement System (PERS) board, the Retirement and Investment Office (RIO), the Bank of North Dakota (BND) and Job Service North Dakota. And finally, it reduces the criminal history background check for state checks to \$15.00, and clarifies our offices ability to charge a \$15.00 fee for processing fingerprints for nationwide FBI background checks.

By way of background let me take a minute to explain the criminal history background process. Criminal history background checks are conducted by the criminal history section of the Bureau of Criminal Investigation. This group conducts statewide checks and runs fingerprints for nationwide checks. The bureau may only conduct nationwide background checks on entities authorized by statute to receive the checks, and after the FBI has approved the statutory language. Throughout the years various entities have asked for authority to receive nationwide background checks ... mostly from licensure boards. Recently, however, more entities have wanted full checks on employees. Until now the authority to receive background checks was placed in the chapter of law dealing with the entity. As such, background check authority is scattered throughout the Century Code, making it hard for staff to keep track of which agency has authority.

Consolidation of Authority

As mentioned, the first goal of SB 2248 is to consolidate the authority to conduct background record checks for 12 different entities into §12-60-24. Over the years various sections of the Century Code have been amended to provide such authority. So for instance, §4-41-02 (1) allows BCI to run nationwide checks for the Agricultural Commissioner on individuals wishing to grow industrial hemp. Section 15.1-13-14 allows BCI to run checks on teachers seeking licensure.

Senate Bill 2248 amends various sections in the Century Code authorizing background checks by removing unnecessary language and by adding a reference to §12-60-24. Attached to this testimony is a table which shows by section of the bill the changes to existing law. With the exception of the authorization to run checks for five new entities, there is no intent to change any other substance

regarding authority to conduct criminal history background checks for a particular government entity.

New Authority to Conduct Checks

Section 4 of the bill sets the stage for the criminal history background check process and the agencies for which the checks may be conducted. Subsection 1 requires each applicant, employee or petitioner for adoption to consent to a statewide and nationwide check. It also requires two sets of fingerprints and a statement regarding criminal history from the applicant or employee. These are present requirements found in existing law. Subsection 2 lists the entities for which BCI may conduct the background checks and includes authorization to run checks for the peace officer training schools, PERS, RIO, BND and Job Service North Dakota.

Changes in Fees

Section 3 of the bill amends §12-60-16.9, dealing with the fees for background checks. Presently all background checks cost \$30.00. This was a change made by the 2003 Legislative Assembly based upon our misunderstanding of what the FBI would allow us to charge. As amended the section will allow BCI to charge \$15.00 for a statewide background check. This check is run by BCI staff and involves processing statewide files only. The new fee is more in line with our costs to run statewide checks.

In addition, the bill increases the cost of statewide checks for nonprofits dealing exclusively for children (like the Boy Scouts) to \$5.00. This change was made to reduce the loss in revenue, albeit only slightly.

Finally, for nationwide checks the fee is \$30.00 ... \$15 for the statewide check and \$15.00 for processing of fingerprints which must be done for each nationwide criminal history record check.

Technical Amendment

Before I provide a section-by-section analysis, when proofing the bill we found an error and as such, I have an amendment for to the bill. On page 3, line 19, after the word "applicant", strike "or" and insert a comma. After "employee" insert "or petitioner for adoption". The language simply makes the bill consistent. The text of the amendment can be found on page 4.

Section-by-Section Analysis

Section 1 – amends §4-41-02 dealing with applicants who want to grow industrial hemp. Language regarding procedures is deleted because it is included in §12-60-24.

Section 2 – amends §12-60-16.6 which deals when criminal history may be disseminated. Language is added at the end of the section to clarify that BCI may

contact a requester to collect additional information if the original request contains inaccurate or incomplete information.

Section 3 – amends §12-60-16.9 as earlier discussed.

Section 4 – amends §12-60-24 as earlier discussed.

Section 5 – amends §15.1-13-14 which deals with the initial licensure of teachers.

Section 6 – amends §15.1-13-20 which deals with the issuance of an interim reciprocal teaching license.

Section 7 – amends §15.1-13-23 which deals with background checks on individuals providing guidance and counseling services in elementary and secondary schools.

Section 8 – amends §43-17-07.1(4) which deals with the licensure of physicians.

Section 9 – amends §43-30-06 which deals with the licensure of private investigators.

Section 10 – amends §50-11.1-06.2 which deals with the placement on the carecheck registry.

Section 11 – amends §54-59-20 which deals with background checks on employees of the department of information technology.

Cross Reference between Existing Law and New Sections

Location in Bill	Existing Section	Topic	New Location
Section 1	§4-41-02	Applicant to grow industrial hemp	§12-60-24(2)(b)
Section 5	§15.1-13-14	Initial licensure of teachers	§12-60-24(2)(c)
Section 6	§15.1-13-20	Reciprocal teaching license	§12-60-24(2)(c)
Section 7	§15.1-13-23	Guidance counselors	§12-60-24(2)(c)
Section 8	§43-17-07.1(4)	Licensure of physicians	§12-60-24(2)(d)
Section 9	§43-30-06	Licensure of private investigators	§12-60-24(2)(e)
Section 10	§50-11.1-06.2	Carecheck registry	§12-60-24(2)(g)
Section 11	§54-59-20	Employees of information technology department	§12-60-24(2)(h)
Existing law	§50-11-06.8	Foster care licenses	§12-60-24(2)(f)
Existing law	§50-11.3-01	Appointment of legal guardians	§12-60-24(2)(f)
Existing law	§50-12-03.2	Petitions for Adoptions	§12-60-24(2)(f)
New law		Candidates for peace officer training school	§12-60-24(2)(i)
New law		Employees of PERS	§12-60-24(2)(j)
New law		Employees of RIO	§12-60-24(2)(k)
New law		Employees of BND	§12-60-24(2)(l)
New law		Employees of Job Service ND	§12-60-24(2)(m)

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2248

Presented by: Sandi Tabor

Office of Attorney General

January 31, 2005

Page 3, line 19, replace "or" with an underscored comma and after "employee" insert ", or petitioner for adoption".

Renumber accordingly

AH #2

Testimony

Senate Bill 2248

Senate Judiciary Committee

January 31, 2005; 9 a.m.

North Dakota Department of Health

Good morning, Chairman Traynor and members of the Senate Judiciary Committee. My name is Darleen Bartz, and I am section chief of the Health Resources Section for the North Dakota Department of Health. I am here to request the addition of the Department of Health to the list of state agencies in the Section 4 amendment of Senate Bill 2248.

The addition of the Department of Health to the list of agencies will allow the department to request criminal history checks when necessary and to implement pending federal legislation that, if enacted, may require criminal history checks for registered, certified or licensed health-care professionals.

Our current needs include criminal background checks or histories of:

- Employees in the Division of Chemistry and Division of Microbiology related to bioterrorism and homeland security issues – about six per year.
- Individuals requesting that a finding of neglect be removed from the nurse aid registry listing so they may return to work in nursing facilities – about seven to eight requests per year.
- Individuals, such as certified nurse aids, dietary aids, or emergency medical personnel, who are under investigation by the department related to complaints filed against them – five or six per year.

Potential future needs include criminal background checks or histories for:

- Licensure, certification or registration of nurse aids or other employees working in certified health-care facilities – more than 6,000 per year.
- Public Health Emergency Volunteer Reserve members. Currently, 400 individuals have registered, but it is anticipated that this number may grow to several thousand. No decision has been made related to conducting criminal background checks on these individuals; however, it is under discussion.

Based upon our current number of requests for criminal background checks and the potential for more, we request that an amendment to include the Department of Health be added to this bill.

This concludes my testimony. I am happy to answer any questions you may have.

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2248

**Provided by: Sandi Tabor
Office of Attorney General**

February 2, 2005

Page 5, after line 22, insert

"n. The department of health for employees assigned duties related to bioterrorism and homeland security issues as designated by the state health officer; a nurse aide seeking to have a finding of neglect removed from the nurse aide registry; or applicants for or persons being investigated by the department of health who hold a license, certificate, or registration in a health related field."

PROPOSED AMENDMENTS TO REENGROSSED
SENATE BILL NO. 2248

Page 6, line 2, remove "applicant for a license, certificate, or registration in a"

Page 6, line 3, remove "health-related field or other"

Renumber accordingly

Testimony on SB 2248
Sandi Tabor
Deputy Attorney General
March 7, 2005

Mr. Chairman and members of the committee I am here today in support of Senate Bill 2248. This bill was introduced at the request of Attorney General Stenehjem.

Senate Bill 2248 accomplishes three things. First, it consolidates the authority to conduct criminal history background checks into §12-60-24. Second, the bill authorizes the Bureau of Criminal Investigation (BCI) to conduct state and federal background checks on individuals entering certain law enforcement training schools, employees of the Public Employees Retirement System (PERS) board, the Retirement and Investment Office (RIO), the Bank of North Dakota (BND) and Job Service North Dakota. The Senate added a new limited category of state checks at the reduced rate and added another agency to the list of those eligible for nationwide checks. And finally, it reduces the criminal history background check for state checks to \$15.00, and clarifies our offices ability to charge a \$15.00 fee for processing fingerprints for nationwide FBI background checks.

By way of background let me take a minute to explain the criminal history background process. Criminal history background checks are conducted by the criminal history section of the Bureau of Criminal Investigation. This group conducts statewide checks and runs fingerprints for nationwide checks. The bureau may only conduct nationwide background checks on entities authorized by statute to receive the checks, and after the FBI has approved the statutory language. Throughout the years various entities have asked for authority to receive nationwide background checks ... mostly from licensure boards. Recently, however, more entities have wanted full checks on employees. Until now the authority to receive background checks was placed in the chapter of law dealing with the entity. As such, background check authority is scattered throughout the Century Code, making it hard for staff to track which agency has authority.

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Senate Bill 2248 amends various sections in the Century Code currently authorizing background checks by removing unnecessary language and by adding a reference to §12-60-24. Attached to this testimony is a table which shows by section of the bill the changes to existing law. With the exception of the authorization to run checks for six new entities, there is no intent to change any other substance

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Finally, for nationwide checks the fee is \$30.00 ... \$15 for the statewide check and \$15.00 for processing of fingerprints which must be done for each nationwide criminal history record check.

Technical Amendment

Before I provide a section-by-section analysis, in reviewing the reengrossed bill we found an error in the amendment we did for the Health Department. The language we drafted at their request after the hearing in the Senate provides that we will conduct nationwide investigations on all applicants for licensure, certification and registration in a health-related field. This could require us to do an additional 6,000 checks and we would need 2 additional FTEs. No one intended such consequences and as such, I have included an amendment at the end of my testimony removing the mistake.

Section-by-Section Analysis

Section 1 – amends §4-41-02 dealing with applicants who want to grow industrial hemp. Language regarding procedures is deleted because it is included in §12-60-24.

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Section 10 – amends §50-11.1-06.2 which deals with the placement on the carecheck registry.

Section 11 – amends §54-59-20 which deals with background checks on employees of the department of information technology.

Section 12 – adds an emergency clause which was added by the Senate at the request of private investigators.