

FISCAL NOTE
Requested by Legislative Council
12/29/2014

Bill/Resolution No.: SB 2077

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$3,000	\$1,275	\$22,800	\$9,680	\$22,800	\$9,680
Expenditures			\$133,129		\$133,099	
Appropriations			\$133,129		\$133,099	

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill relates to conducting criminal history record checks specifically for individuals who are volunteers and applicants for the North Dakota Game and Fish Department.

- 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.*

Section 1 of the bill approves the addition of criminal record checks for volunteers and applicants for the North Dakota Game and Fish Department. This fiscal note is written in consideration of this bill, as well as 2015 House Bill No's. 1105 and 1125, and Senate Bill No. 2085, which provide for additional criminal history checks for the North Dakota Adjutant General, ND Parks and Recreation, and massage therapists.

This fiscal note also considers 1) increases in workload due to legislation in 2011 and 2013 which provided for 7 entities to request a combined total of 700 record checks each year, without adding staff resources; 2) significant increases of over 2,300 checks per year from a number of entities including DHS Early Childhood Services (from 1,200 per year in 2011 to about 2,000 in 2014, DHS employee record checks of about 350 in 2011, to about 550 in 2014, and Foster Care increases from 1,250 to 1,450 (200 per year); Education Standards and Practices Board from 1,200 per year in 2011 to 1,650 in 2014 (450 per year); and public schools from 1,600 in 2011 to 2,300 in 2014 (700 per year); and new FBI audit requirements requiring the office to conduct audits of each of the entities that receive FBI records under NDCC 12-60-24(2). The audits are to ensure that the individuals understand the confidentiality requirements, are conducting criminal record checks only upon those approved in statute, store records properly, etc. The office does not have existing resources to institute an audit procedure and begin auditing. The office must have this procedure in place and functioning before the FBI comes to North Dakota to audit in September, 2016.

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.*

North Dakota fees include \$15 for a ND record check and a \$15 processing fee to submit fingerprint card to FBI. FBI fees are \$12.75 for an FBI record check. The total of fees for a state and federal fingerprint-based criminal record check is \$42.75. Section 1 A of this fiscal note is specific to North Dakota Game & Fish.

- 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.*

Expenditures include 1 FTE for the Office of Attorney General to process the criminal record checks required by this bill, as well as by 2015 House Bill No's. 1105 and 1125, and Senate Bill No. 2085. Additionally, this fiscal note addresses increased workload due to entities required to conduct criminal record checks by 2011 and 2013 legislatures (no additional staff resources were requested in 2011 or 2013); increasing numbers of record checks from existing agencies (a 15% increase overall from 2012 to 2014, from 37,278 to 42,506 in 2014); and implementing new FBI requirements that the office audit all entities receiving FBI records under NDCC 12-60-24.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The appropriation needed for the expenditures provided above is estimated at \$133,129 for the 2015-17 biennium and \$133,099 for the 2017-19 biennium, which includes 1 FTE and associated expenses and the FBI fees this office pays to receive fingerprint-based record checks.

Name: Kathy Roll

Agency: Office of Attorney General

Telephone: 701-328-3622

Date Prepared: 01/05/2015

2015 SENATE ENERGY AND NATURAL RESOURCES

SB 2077

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

SB 2077
1/8/2015
21760

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks for game and fish department volunteers and final applicants.

Minutes:

1 Attachment

Chairman Schaible called the committee to order, roll was take and all committee members were present.

Greg Link: See attachment #1.

Chairman Schaible: Every part time employee would have a background check?

GREG LINK: This pertains to employees it only pertains to those who deal with sensitive information.

Senator Murphy: I thought all the volunteers were going to be checked?

GREG LINK: Yes, we have been having our own staff enforcement staff do that. In the past our volunteers have been North Dakota residents but as time goes on we are seeing people from out of the state who want to volunteer. We need to get information from other states, the Bureau of Criminal Investigation has access to that.

Senator Murphy: Cost and time involved in the department?

GREG LINK: \$45 to cover a Bureau of Criminal Investigation history check. Again, we would do it on the new volunteers. Every three years our volunteers would continue to have a background check. I am not sure if it would be BCI or in house.

Senator Triplett: How much of the fiscal note is for your request as opposed to other agencies requests.

GREG LINK: We get 20-30 new volunteers a year and we have a few staff employees so the cost is minor.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

SB 2077

1/9/2015

21786

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

Kate Oliver

Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks for game and fish department volunteers and final applicants.

Minutes:

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A motion was made by Senator Armstrong move the bill out of a committee with a Do Pass motion. The motion was seconded by Senator Murphy, roll was taken and the bill moved out of committee with a 7-0 Do Pass recommendation. Senator Murphy will carry the bill to the Senate floor.

Date: 1-9-15
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2077

Senate	Energy and Natural Resources	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Armstrong Seconded By Murphy

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sam Murphy

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

REPORT OF STANDING COMMITTEE

SB 2077: Energy and Natural Resources Committee (Sen. Schaible, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2077 was placed on the Eleventh order on the calendar.

2015 HOUSE ENERGY AND NATURAL RESOURCES

SB 2077

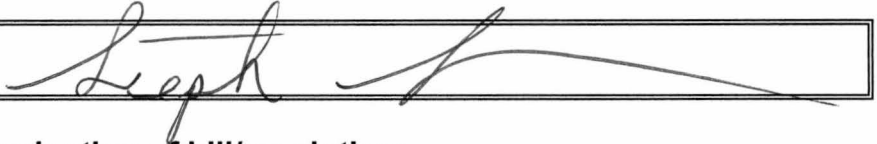
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2077
3/5/2015
Job # 24358

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks for game and fish department volunteers and final applicants.

Minutes:

Attachments 1

Chairman Porter opens hearing.

Greg Link, Chief-Conservation and Communications Division- North Dakota Game and Fish Department. Explains the bill; **Written testimony #1**

Chairman Porter: Is there a mechanism inside of this that cuts down on the duplication of the criminal records checks?

Link: There is no provision in this to prevent duplication.

Chairman Porter It would be nice to have language that said "if one hasn't already been run on that individual..."

Link: I don't know how we would know if a comprehensive background check has been done on an individual until we forward it to the Bureau of Criminal Investigation and they tell us they've done this person.

Chairman Porter: If we could make it so someone could see it was done on an individual then we could do away with the cost of doing some of these comprehensive background checks.

Link: I think the background checks costs us about 45 dollars each. Five years is probably longer than we'd want, we'd want to check more often.

Rep. Mike Nathe: In regards to the fiscal note, it takes this bill into consideration along with three other bills, how much would be your department's expenditure?

Link: It would be the 30 times 45 dollars.

Rep. George Keiser: The language of the bill leaves it to the digression of the director. Why to the digression of the director? What does risk management say about that?

Link: There won't be a Bureau of Investigation's background check on every new employee. If that employee never has anything to do with sensitive public records, only on individuals that have access to things like social security numbers, etc.

Rep. George Keiser: Why don't you define who you are going to do the record checks on?

Link: We don't have a problem with that.

Rep. Mike Nathe: Is it your policy to do background checks on volunteers?

Link: As soon as they apply to volunteer they have a background check. The records are checked every three years.

Rep. Mike Nathe: Is it your policy that a volunteer gets a back ground check no matter what?

Link: Yes.

Rep. Mike Nathe: Whether they are supervised or unsupervised?

Link: Yes.

OPPOSITION: None.

Judy Volk: ND Bureau of Criminal Investigations-Attorney General's Office: Called to podium.

Chairman Porter: In the case of duplication, at some point we need to set a standard as to when someone needs the full background FBI check and when they need the in state background check?

Volk: We typically do not give specific advice to agencies about who they should record check and when. We recommend that you work with your legal counsel and also with a risk management agency to assess your risk. The record check is only as good as the day you check it.

Rep. Glen Froseth: How do you handle short term on the spot volunteerism?

Volk: It's up to the policy of the agency.

Rep. Mike Nathe: In regards to the fiscal note, it encompasses four different bills, could you give us a break down of each bill.

Chairman Porter: From this bill's stand point, if Mr. Link's numbers are right, we would not need to send this to appropriation.

Volk: I will discuss it with our financial administrator.

Link: Referring to Rep. Glen Froseth's question. There are many events that we do not have over site over.

Vice Chairman Damschen closes hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Pioneer Room, State Capitol

SB 2077

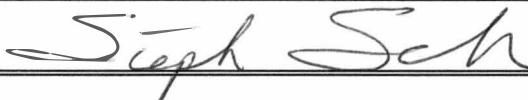
3/12/2015

Job # 24771

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks for game and fish department volunteers and final applicants.

Minutes:

Attachments 0

Chairman Porter opens discussion.

Rep. Curt Hofstad: I move a Do Pass and Rereferral to Appropriations.

Rep. Dick Anderson: Second.

Vote: yes 13, no 0, absent 0.

Rep. Bob Hunsakor: Carrier.

Chairman Porter: Closes discussion.

Date: 3/12/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 2077

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Motion Made By Rep. Hofstad Seconded By Rep D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hunsakor	✓	
Vice Chairman Damschen	✓		Rep Mock	✓	
Rep D Anderson	✓		Rep Muscha	✓	
Rep Brabandt	✓				
Rep Devlin	✓				
Rep Froseth	✓				
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Lefor	✓				
Rep Nathe	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Hunsakor

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

REPORT OF STANDING COMMITTEE

SB 2077: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2077 was rereferred to the
Appropriations Committee.

2015 HOUSE APPROPRIATIONS

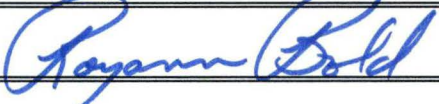
SB 2077

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2077
3/24/2015
25314

☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks for game and fish department volunteers and final applicants.

Minutes:

No Attachments

Chairman Jeff Delzer opened the meeting.

Representative Todd Porter, District 34, spoke on the bill.

Chairman Jeff Delzer

Do they have to do it on every volunteer, or do they have some volunteer positions where there is absolutely no contact with someone or where it is not necessary?

Porter: exactly why it says on line 8, as determined by the director; so if they are hired and their position is to plant trees and they are buy themselves; they don't need a back ground check. It is dependent upon their duties; if they are in contact with the public, then they do have to have background checks.

Chairman Jeff Delzer

Who is your carrier?

Porter: Representative Hunsakor

Chairman Jeff Delzer: Came out of an audit?

Porter: Their performance audit that they had last biennium. They were doing inside the department, with law enforcement; they could do the state background checks, but they couldn't do the federal without going through the attorney general's office.

Representative Brandenburg

That FTE, that is in there the attorney general's office is that a new FTE?

Porter: This fiscal note is for the whole program and all the agencies that are in there with the large component being department of human services.

Chairman Jeff Delzer

Pay no attention to the fiscal note

Porter: not for this bill

Motion for DO PASS made by **Representative Nelson**
Second **Representative Holman**
Representative Hunsakor is the carrier.

Motion carries: 20-0-3
Meeting adjourned.

Date: 3/24/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2077

House: Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Motion Made By: Nelson Seconded By: Holman

Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓		
Vice Chairman Keith Kempenich			A
Representative Bellew	✓		
Representative Brandenburg	✓		
Representative Boehning	✓		
Representative Dosch			A
Representative Kreidt	✓		
Representative Martinson	✓		
Representative Monson	✓		
Representative Nelson	✓		
Representative Pollert	✓		
Representative Sanford	✓		
Representative Schmidt			A
Representative Silbernagel	✓		
Representative Skarphol	✓		
Representative Streyle	✓		
Representative Thoreson	✓		
Representative Vigesaa	✓		
Representative Boe	✓		
Representative Glassheim	✓		
Representative Guggisberg	✓		
Representative Hogan	✓		
Representative Holman	✓		
TOTALS	20	0	3

Floor Assignment: Hunsaker

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

REPORT OF STANDING COMMITTEE

SB 2077: Appropriations Committee (Rep. Delzer, Chairman) recommends **DO PASS**
(20 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2077 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

SB 2077



Senate Energy and Natural Resources Committee

Testimony on SB 2077

Greg Link, Chief
Conservation and Communications Division

North Dakota Game and Fish Department

January 8, 2015

Chairman Schaible and members of the Senate Energy and Natural Resources committee, my name is Greg Link. I serve as the Conservation and Communications Division Chief of the North Dakota Game and Fish Department and I'm testifying in support of SB 2077.

While fulfilling their duties of administering licensing, training, and management agreement requirements pertinent to our mission, certain employees of the North Dakota Game and Fish Department (Department), routinely have access to sensitive personal information specific to the public they serve. It is, therefore, prudent that criminal history background checks be conducted as a condition of employment for these Department staff.

In addition to its regular employees, the Department relies heavily on a cadre of over 800 volunteer instructors to teach and assist in the delivery of its outdoor education programs, such as: Hunter Education, Hooked On Fishing, Fur Harvester Education, Becoming an Outdoor-Woman, Boat and Water Safety, and others. These volunteers are expected to uphold the same values, standards, and policies of ethics and safety as regular Department employees. To ensure the well-being of children, young adults, and women they are mentoring during their instruction, criminal records background checks have

been conducted "in-house" on new volunteer instructors by the Department's Enforcement Division.

Based on the Department's 2014 performance audit, we consulted with the Risk Management Division of the Office of Management and Budget regarding criminal background checks of both volunteer and employment applicants. Because of the likelihood of more volunteer and employee candidates originating from outside North Dakota in the future, it was recommended the Department acquire authority to have the North Dakota Bureau of Criminal Investigations conduct more comprehensive criminal history records checks which would extend to records outside North Dakota. As currently written, SB2077 would meet that recommendation by mandating the North Dakota Bureau of Criminal Investigations to conduct criminal history record checks on both Department volunteers and final applicants for employment at the discretion of the Game and Fish Department director.

Chairman Schaible and Committee Members, the North Dakota Game and Fish Department respectfully recommends a **DO PASS** on SB 2077.



3/5/15
2077
#1

House Energy and Natural Resources Committee

Testimony on SB 2077

Greg Link, Chief
Conservation and Communications Division

North Dakota Game and Fish Department

March 5, 2015

Chairman Porter and members of the House Energy and Natural Resources committee, my name is Greg Link. I serve as the Conservation and Communications Division Chief of the North Dakota Game and Fish Department and I'm testifying in support of SB 2077.

While fulfilling the administrative duties and requirements associated with licensing, training, and managing agreements pertinent to our mission, certain employees of the North Dakota Game and Fish Department (Department) routinely have access to sensitive personal information specific to the public they serve. It is, therefore, prudent that criminal history record checks be conducted as a condition of employment for these Department staff.

In addition to its regular employees, the Department relies heavily on a cadre of over 800 volunteer instructors to teach and assist in the delivery of its outdoor education programs, such as: Hunter Education, Hooked On Fishing, Fur Harvester Education, Becoming an Outdoor-Woman, Boat and Water Safety, and others. These volunteers are expected to uphold the same values, standards, and policies of ethics and safety as regular Department employees. To ensure the well-being of children, young adults, and women being taught and mentored in these programs, the Department conducts criminal history record checks on all new volunteer instructors, as well.

The Department currently tasks our Enforcement Division to conduct these criminal history record checks on both volunteer and employee applicants. Based on the Department's 2014 performance audit, we consulted with the Risk Management Division of the Office of Management and Budget regarding the criminal history record checks we conduct "in-house". Because the future likelihood of more volunteer and employee candidates originating from outside North Dakota, it was recommended the Department acquire legislative authority to have the North Dakota Bureau of Criminal Investigations conduct the criminal history records checks on both volunteer and employee applicants, as they have access to FBI records and those from outside North Dakota. As currently written, SB2077 would meet that recommendation by mandating the North Dakota Bureau of Criminal Investigations conduct criminal history record checks on both Department volunteers and final applicants for employment at the discretion of the Game and Fish Department director.

Chairman Porter and Committee Members, the North Dakota Game and Fish Department respectfully recommends a **DO PASS** on SB 2077.