

2019 HOUSE JUDICIARY

HB 1074

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1074
1/8/2019
Job #30542

- Subcommittee
 Conference Committee

Committee Clerk: DeLores D. Shimek (by ReMae Kuehn)

Explanation or reason for introduction of bill/resolution:

A BILL relating to criminal history record checks by the office of state treasurer for individuals with access to personal information.

Minutes:

Attachment #1, 2

Chairman K. Koppelman: Opened the hearing on HB 1074.

Ryan Skor, Director of Finance for the Office of State Treasurer: (See Attachment #1)
(0:00-3:40) Proposed amendment (See Attachment #2)

Rep. Vetter: Who required this? The FEDS? What if you are not in compliance and don't have those background checks?

Ryan Skor: The requirement is coming from the IRS. The IRS audits the Child Support division. They found that Child Support was not in compliance with safeguarding personal information.

Rep. Vetter: What happened for being out of compliance?

Ryan Skor: I would have to defer that question to Child Support.

Rep. Vetter: With everybody doing background checks, it overloads the system.

Ryan Skor: Our office has an FTE level of seven people. Each one was background checked when they started. Within the next five years we would again do seven background checks. The level from our office would not be significant.

Chairman K. Koppelman: Discussed a situation that happened and how the background check came into being.

Rep. Becker: You're are indicating that the reason for needing this is because some federal tax information ends up on refund checks. Why not eliminate it from the refund checks? Then you don't have to worry about the cost of doing background checks.

Ryan Skor: It happens with the joint filing status.

Opposition: None

Hearing closed.

Rep. Becker: Moved to adopt proposed amendment.

Rep. Jones: Seconded the motion.

Voice Vote taken. Motion carried. Amendment is adopted.

Rep. Satrom: Moved Do Pass as amended.

Rep. McWilliams: Seconded the motion.

A Roll Call vote was taken: Yes 10, No 4, Absent 0.

Do Pass as amended carries.

Representative Satrom will carry the bill.

DA 1/8/19

19.8018.01001
Title.02000

Adopted by the Judiciary Committee

January 8, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1074

Page 1, line 1, after "12-60-24" insert "and a new section to chapter 54-11"

Page 1, line 8, remove "as designated by the treasurer"

Page 1, after line 8, insert:

"**SECTION 2.** A new section to chapter 54-11 of the North Dakota Century Code is created and enacted as follows:

Criminal history record checks.

The state treasurer shall require any applicant, employee, or independent contractor who has access to personal information to submit to a statewide and nationwide criminal history record check, and subsequent recheck within ten years from the date of the previous criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24."

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1074**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: Specifies who has background checks and time frame for rechecks

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. Becker Seconded By Rep. Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					
<i>Voice Vote</i>					
<i>Motion Carried</i>					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1074**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: 19.8018.01001

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. Satrom Seconded By Rep. McWilliams

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker		X			
Rep. Terry Jones	X				
Rep. Magrum		X			
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones	X				
Rep. Satrom	X				
Rep. Simons		X			
Rep. Vetter		X			

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Satrom

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

REPORT OF STANDING COMMITTEE

HB 1074: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1074 was placed on the Sixth order on the calendar.

Page 1, line 1, after "12-60-24" insert "and a new section to chapter 54-11"

Page 1, line 8, remove "as designated by the treasurer"

Page 1, after line 8, insert:

"SECTION 2. A new section to chapter 54-11 of the North Dakota Century Code is created and enacted as follows:

Criminal history record checks.

The state treasurer shall require any applicant, employee, or independent contractor who has access to personal information to submit to a statewide and nationwide criminal history record check, and subsequent recheck within ten years from the date of the previous criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24."

Re-number accordingly

2019 SENATE JUDICIARY

HB 1074

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1074
2/6/2019
Job #32247 (8:10)

- Subcommittee
 Conference Committee

Committee Clerk: Meghan Pegel

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 and a new section to chapter 54-11 of the North Dakota Century Code, relating to criminal history record checks by the office of state treasurer for individuals with access to personal information.

Minutes:

1 Attachment

Chair Larson opens the hearing on HB 1074.

Ryan Skor, Director of Finance for the Office of State Treasurer, testifies in favor (see attachment #1)

Chair Larson: Would the treasurer's office pay for those background checks out of your budget?

Skor: Yes. We do currently with all of the ones we request on our new employees and would absolutely cover that. It costs about \$40 per employee, and currently have 7 FTEs in our office, so at most if everybody was still around for 10 years, it would be another 7 times \$40 to cover that.

Senator Myrdal: "Within" 10 years so it's at your discretion?

Skor: Yes. We've had discussions with our Assistant Attorney General to word that. The second paragraph in the initial bill spells out our duties within section 54 of the Century Code. It gives us the authority to say within 10 years. Our intent is to create policy within our office that essentially states a set number of years whether it be 5 or 10 years that will be an internal policy of our office. Yes, it's within 10 years to comply with the IRS publication 1075.

Mr. Skor continues testimony

(5:30) Vice Chairman Dwyer: Federal tax- does that give you the criminal background check?

Skor: The federal tax information is the information that's on the checks or essentially the private information that is then- since the IRS has defined that federal tax information that's showing up on those checks- that's what they're requiring us to safeguard. Then safeguarding that federal tax information is requiring the federal and state background check to do that.

Chair Larson closes the hearing on HB 1074.

**Senator Bakke Moves to adopt the amendment to replace "personal" with "federal tax"
Senator Myrdal Seconds.**

A Roll Call Vote was Taken: 6 yeas, 0 nays, 0 absent. The amendment is adopted.

**Senator Myrdal Moves a Do Pass as Amended.
Senator Osland Seconds.**

A Roll Call Vote was Taken: 6 yeas, 0 nays, 0 absent. Motion passes.

Senator Osland will carry the bill.

19.8018.02001
Title.03000

Adopted by the Senate Judiciary Committee

February 6, 2019

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1074

Page 1, line 3, replace "personal" with "federal tax"

Page 1, line 7, replace "personal" with "federal tax"

Page 1, line 13, replace "personal" with "federal tax"

Renumber accordingly

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1074**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: Replace "personal" with "federal tax"

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 Senator Myrdal Seconded By Senator Osland

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Osland

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

REPORT OF STANDING COMMITTEE

HB 1074, as engrossed: Judiciary Committee (Sen. D. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1074 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "personal" with "federal tax"

Page 1, line 7, replace "personal" with "federal tax"

Page 1, line 13, replace "personal" with "federal tax"

Renumber accordingly

2019 CONFERENCE COMMITTEE

HB 1074

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1074
4/10/2019
34651

- Subcommittee
 Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks by the office of state treasurer for individuals with access to federal tax information.

Minutes:

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Members Present: Rep. McWilliams, Rep. Buffalo; Rep. Magrum; Senator Myrdal, Senator Lemm, Senator Bakke

Rep. McWilliams: Opened the conference committee hearing on HB 1074. We are going from a personal tax information to federal tax information. Any particular reason for that change?

Senator Bakke: We received a letter from Kelly Smith's office that told us that the IRS is requiring this of them. They require the language federal tax information; personal information is too broad. This change had to be made in order to be in compliance with the IRS regulations. That is why we made the change.

Rep. McWilliams: Is there information on federal tax information that would be personal information. Is there information that would be left out there or more or less information?

Senator Bakke: By putting have excess to personal information it could be anything. It is left to too much interpretation. Working in the State Treasury's office it is just information to your federal tax information.

Senator Myrdal: It is a simple bill in its origin. It just adds the State Treasurer to the agencies that can require these background checks. It was compliance with federal language. What was the concern in the committee?

Rep. McWilliams: He just wanted a little bit of clarification of why the language changed? I was not aware there was a letter from the state treasurer's office.

Rep. Magrum: I was a no vote on the committee and I would be ok with the change if it would narrow it down so they don't need every little bit of information that comes from the treasurer's office.

House Judiciary Committee

HB 1074

April 10, 2019

Page 2

**Motion Made for the House to accede to the Senate Amendments by Rep. Magrum
Seconded by Rep. Buffalo**

Roll Call Vote: 6 Yes 0 No 0 Absent Carrier: Rep. McWilliams

Closed.

REPORT OF CONFERENCE COMMITTEE

HB 1074, as engrossed: Your conference committee (Sens. Myrdal, Lemm, Bakke and Reps. McWilliams, Buffalo, Magrum) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1044 and place HB 1074 on the Seventh order.

Engrossed HB 1074 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

HB 1074



STATE OF NORTH DAKOTA
OFFICE OF STATE TREASURER
KELLY L. SCHMIDT, STATE TREASURER

#1
HB1074
1-8-19

**House Bill 1074
Testimony in Support
House Judiciary
Representative Kim Koppelman, Chairman**

Mr. Chairman, members of the committee:

For the record, my name is Ryan Skor and I am the Director of Finance for the Office of State Treasurer. We are here in support of HB 1074 relating to criminal history record checks to be requested by our office upon initial hire and as a contingency of continued employment for all employees who have access to personal information.

Currently, all employees of the Office of State Treasurer must pass a criminal history record check because a vital part of their daily duties requires them to have access to PeopleSoft Financials. The Office of Management and Budget, as the administrator of PeopleSoft, requires these record checks prior to granting access so we are, in effect, using their statutory authority in requesting these initial checks.

Recently, the North Dakota Child Support Division under went an IRS audit which found that some federal tax information (FTI) from their office potentially ends up on refund checks they issue. Since these checks are handled and distributed by Office of State Treasurer personnel, the IRS is requiring them to enter into a service level agreement with our office regarding this FTI. This agreement requires the Office of State Treasurer to comply with IRS Publication 1075 which spells out tax information security guidelines for government agencies.

IRS Publication 1075 states that agencies must require employees with access to FTI to pass a background investigation prior to permitting access to FTI. It also requires a reinvestigation for all employees within ten years. Although every employee of the Office of State Treasurer currently must pass a background investigation prior to employment, there is no statutory authority for us to request a reinvestigation after the time of hire. That is the intent of this bill.

After initially introducing this bill, we have had some discussions with our Assistant Attorney General and the Bureau of Criminal Investigation and have been advised to propose a slight amendment to the bill. I've attached a copy of our requested amendment. This amendment would clarify who could be subjected to a background investigation at the request of the Office of State Treasurer as well as allow for a reinvestigation within a set time frame.

We would respectfully ask that you consider this amendment to HB 1074 and, if approved, we would respectfully ask for a DO PASS recommendation on this bill, as amended.

Thank you for your time and consideration.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1074

#2
HB 1074
1-8-19

Page 1, line 8, remove "as designated by the treasurer"

Page 1, after line 8, insert:

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Criminal history record checks.

The state treasurer shall require any applicant, employee, or independent contractor who has access to personal information to submit to a statewide and nationwide criminal history record check, and subsequent recheck within 10 years from the date of the previous criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.

Renumber accordingly



STATE OF NORTH DAKOTA
OFFICE OF STATE TREASURER
KELLY L. SCHMIDT, STATE TREASURER

1
HB 1074
2-6-19
page 1

Engrossed House Bill 1074
Testimony in Support
Senate Judiciary
Senator Diane Larson, Chair

Chair Larson, members of the committee:

For the record, my name is Ryan Skor and I am the Director of Finance for the Office of State Treasurer. We are here in support of HB 1074 relating to criminal history record checks to be requested by our office upon initial hire and as a contingency of continued employment for all employees who have access to federal tax information.

Currently, all employees of the Office of State Treasurer must pass a criminal history record check because a vital part of their daily duties requires them to have access to PeopleSoft Financials. The Office of Management and Budget, as the administrator of PeopleSoft, requires these record checks prior to granting access so we are, in effect, using their statutory authority in requesting these initial checks.

Recently, the North Dakota Child Support Division underwent an IRS audit which found that some federal tax information (FTI) from their office potentially ends up on refund checks they issue. Since these checks are handled and distributed by Office of State Treasurer personnel, the IRS is requiring them to enter into a service level agreement with our office regarding this FTI. This agreement requires the Office of State Treasurer to comply with IRS Publication 1075 which spells out tax information security guidelines for government agencies.

IRS Publication 1075 states that agencies must require employees with access to FTI to pass a background investigation prior to permitting access to FTI. It also requires a reinvestigation for all employees within ten years. Although every employee of the Office of State Treasurer currently must pass a background investigation prior to employment, there is no statutory authority for us to request a reinvestigation after the time of hire. That is the intent of this bill.

As part of the requirement for requesting federal background checks, the State Bureau of Criminal Investigation submitted a copy of Engrossed House Bill 1074 to the Federal Bureau of Investigation for review. After their initial review, they suggested the term "personal information" is overly broad and recommended the bill be amended to change that specific language to "federal tax information". As this is the language that is found in IRS Publication 1075 mentioned above, we agree with their suggestion and would respectfully like to offer this as an amendment to Engrossed HB 1074. I've attached a copy of our requested amendment for your consideration. This amendment would further clarify who could be subjected to a background investigation at the request of the Office of State Treasurer.

We would respectfully ask that you consider this amendment to Engrossed HB 1074 and, if approved, we would respectfully ask for a DO PASS recommendation on this bill, as amended.

Thank you for your time and consideration.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1074

Page 1, line 7, replace "personal" with "federal tax"

Page 1, line 13, replace "personal" with "federal tax"

Renumber accordingly

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HB 1074
2-6-19
page 2