

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2223

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Deanna D. Walsh  
Operator's Signature

10/21/03  
Date

2003 SENATE POLITICAL SUBDIVISIONS

SB 2223

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10/21/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2223

Senate Political Subdivisions Committee

Conference Committee

Hearing Date **January 30, 2003**

Tape Number	Side A	Side B	Meter #
1		X	0 - 1851

Committee Clerk Signature *Shirley Borg*

Minutes:

CHAIRMAN COOK opened the hearing on SB 2223. All members (6) in attendance.

SB 2223 is a bill to authorize for a city or county to require the submission of fingerprints of an applicant for certain city or county employment.

SENATOR FLAKOLL introduced SB 2223 and explained that it is important to get the best information on people when hiring from out of state.

**Testimony in support of SB 2223**

**Bruce Hoover**, Fargo Fire Chief and Director of ND Fire Chief's Association appeared in support of SB 2223 (See attached testimony)

**SENATOR GARY LEE** asked what is meant by criminal background in relation to this bill.

**Bruce Hoover** answered that their intent is that they would like to have access to the FBI data base. Any convictions in their history.

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*Dorinda Waller*  
Operator's Signature

10/21/03  
Date

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Senate Political Subdivisions Committee  
Bill/Resolution Number SB 2223  
Hearing Date January 30, 2003

**Jerry Kemmet**, Director Bureau of Criminal Investigation, appeared in neutral position of SB 2223. They are trying to streamline the process so that it will take less time for an investigation. Right now it takes up to six months. This check would include all the states in the United States. (see attached testimony)

**Bob Helton**, Manager of Criminal Records, As indicated in the fiscal note, if all of these bills pass it could create a problem for them. With a FTE they should be able to handle them with no problem.

**Jack McDonald**, North Dakota Newspaper Association, and North Dakota Broadcasters Association requested an amendment. (see attached testimony)

**No testimony in opposition of SB 2223**

**CHAIRMAN COOK** closed the hearing on SB 2223

**SENATOR JUDY LEE** moved to **Amend** SB 2223 to include on line 9 prior to the word criminal the word FBI.

**SENATOR GARY LEE** seconded the motion

Roll Call Vote: 6 Yes 0 No 0 Absent

**SENATOR SYVERSON** move a DO PASS AS AMENDED

**SENATOR GARY LEE** seconded the motion.

Roll Call Vote: 6 Yes 0 No 0 Absent

Carrier: **SENATOR JUDY LEE**

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/17/2003

Bill/Resolution No.: SB 2223

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$8,000			
Expenditures			\$12,808			
Appropriations			\$12,808			

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
				(\$8,000)			(\$8,000)	

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

This bill allows a state and federal criminal records check for those applicants designated by a county resolution or city ordinance to undergo such check. State statute assesses a \$20 fee for a state record check. The state receives no remuneration for processing federal records checks. The estimated cost in staff time and operating expenses for the Bureau of Criminal Investigation (BCI) to process records checks is approximately \$18.34 for state only, and \$30.52 for state and federal (the average for all records checks is estimated at \$20.12). The \$20 fee charged by the state goes to the General Fund, so any increases in workload caused by the requirement to conduct criminal record checks for specified groups or organizations are not necessarily covered by the Attorney General's appropriation for BCI staff. This bill, taken by itself, does not require an additional FTE, but this and other similar bills, taken as a whole, would require an additional FTE if enacted. Please refer to House Bill No. 1252, and Senate Bill No. 2253, which allow for criminal records checks on certain Information Technology Division (ITD) employee, and by the North Dakota Board of Medical Examiners respectively.

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.

The only city or county agency that is known to intend to request criminal records checks on applicants for employment, at the present time, is the Fargo Fire Department. Other counties and cities are anticipated to enact resolutions or ordinances, however, and a very conservative estimate is that it may result in approximately 400 such requests in the 2003-05 biennium, which would result in revenues of \$8,000 at the current fee of \$20 per record check. Subsequently, in the 2005-07 biennium because of the ever-increasing interest in conducting criminal records checks for specific occupations and activities, an estimate is not possible.

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.

It is estimated that, given personnel and operating cost for BCI personnel directly involved in conducting criminal records checks, the current cost of processing a state and federal record check is approximately \$30.52. There are five FTE positions directly involved in this activity. The cost of processing the criminal records checks anticipated by

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12/21/03  
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this bill, based on the estimate per record check, is \$12,208.

**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.

No additional appropriation has been made to cover the costs anticipated by this bill.

<b>Name:</b>	Robert Helten/Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	701-328-5500/328-3622	<b>Date Prepared:</b>	01/24/2003

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10/21/03  
Date

30347.0301  
Title.0400

Adopted by the Political Subdivisions  
Committee  
January 30, 2003

*JS*  
*2-7-3*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2223

Page 1, line 9, replace "Criminal" with "Federal bureau of Investigation criminal" and remove "when"

Page 1, line 10, replace "received" with "obtained" and replace "not a public record subject to section 44-04-18 and section 6 of" with "confidential"

Page 1, line 11, remove "article XI of the Constitution of North Dakota"

Renumber accordingly

Page No. 1

30347.0301

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*Dennis D. [Signature]*  
Operator's Signature

*10/2/03*  
Date

Date: 1-30-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2223

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 30347.0301

Action Taken A Mendment Adopted

Motion Made By Senator Judy Lee Seconded By Senator Gary Lee

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

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Deanna Waller Operator's Signature 10/21/03 Date



REPORT OF STANDING COMMITTEE (410)  
February 7, 2003 2:50 p.m.

Module No: SR-24-2050  
Carrier: J. Lee  
Insert LC: 30347.0301 Title: .0400

**REPORT OF STANDING COMMITTEE**

**SB 2223: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2223 was placed on the Sixth order on the calendar.**

Page 1, line 9, replace "Criminal" with "Federal bureau of Investigation criminal" and remove "when"

Page 1, line 10, replace "received" with "obtained" and replace "not a public record subject to section 44-04-18 and section 6 of" with "confidential"

Page 1, line 11, remove "article XI of the Constitution of North Dakota"

Renumber accordingly

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*10/21/03*  
Date

2003 HOUSE POLITICAL SUBDIVISIONS

SB 2223

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Deanna Walsh  
Operator's Signature

10/21/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2223

House Political Subdivisions Committee

Conference Committee

Hearing Date: March 7, 2003

Tape Number	Side A	Side B	Meter #
1	X		25.8-49.7
Committee Clerk Signature <i>Mickie Schmidt</i>			3-17-03

Minutes:

**TAPE 1; SIDE A:**

**(25.8) CHAIRMAN GLEN FROSETH:** We will open the hearing on SB 2223.

**(25.3) BRUCE HOOPER; FARGO FIRE CHIEF:** (Testimony in support) (See attachment #1)

**(28.0) CHAIRMAN GLEN FROSETH:** Do you know if most other states have the same access?

**(28.1) BRUCE HOOPER:** At this point International Association of Fire Chiefs right now are compiling data.

**(28.6) CHAIRMAN GLEN FROSETH:** Also, I was wondering if there was any federal participation in this due to Homeland Security program.

**(28.9) BRUCE HOOPER:** When we first started working on this over a year ago, the FBI said that under jeopardized policy career firefighters need background checks. A year ago, the

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10/21/03  
Date

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House Political Subdivisions Committee  
Bill/Resolution Number SB 2223  
Hearing Date: March 7, 2003

standard said that state law had to specify that occupation. Since then the Attorney General of the United States has ruled that they changed the scope.

**(30.0) REP. WILLIAM KRETSCHMAR:** How many employees do you have?

**(30.1) BRUCE HOOPER:** We have 91 full time employees. We hire about 45 people a year.

**(30.4) REP. GIL HERBEL:** Is there any cost to access this?

**(30.5) BRUCE HOOPER:** The only cost is what the state charges. We are very flexible on that fee.

**(31.3) CHAIRMAN GLEN FROSETH:** There is a fiscal note on this Bill. There's a \$20.00 fee for the state and there's an \$18.34 fee for FBI. I think we will address this and it will probably have to go to Appropriations.

**(31.7) REP. DALE SEVERSON:** Should someone choose not to get finger printed, is that an automatic disqualification for employment?

**(31.8) BRUCE HOOPER:** It will be mandatory for every position.

**(32.5) REP. DALE SEVERSON:** The BCI, you would just go to each state, rather than to the FBI?

**(32.7) BRUCE HOOPER:** At this point, that's what we need to do. With this Bill, the FBI only has one data base, and we would only need to access that.

**(33.5) REP. DALE SEVERSON:** When you receive that information back, how secure is that personal information?

**(33.8) BRUCE HOOPER:** At this time, every record is public record. As soon as we make our hiring decision, then the records are closed.

**(34.3) REP. DALE SEVERSON:** Who has access to that information?

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Date

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House Political Subdivisions Committee  
Bill/Resolution Number SB 2223  
Hearing Date: March 7, 2003

**(34.4) BRUCE HOOPER:** We have two people doing the back ground checks and they report to me.

**(34.5) REP. ALON WIELAND:** On lines 4 and 5, it says the governing body of a city by ordinance of a county by resolution, there are five home rule counties that can pass ordinances and it may be in their best interest to do that, and I don't know whether they would still be able to do this under this particular Bill as it is written, but would you have any objection if it were amended to include those home rule counties under ordinance as opposed to resolution?

**(35.1) BRUCE HOOPER:** We went through several drafts and different processes. They don't want the counties or cities to have one meeting and pass a resolution. They want it to be in code somewhere.

**(36.6) JERRY KEMMIT: DIRECTOR OF BUREAU OF CRIMINAL INVESTIGATION:**  
We appear before you in a neutral position. (See attachment #2) We are the agency for collecting criminal history records, putting them out, keeping them, and also disseminating the records when we get a request. There is also SB 2041.

**(40.2) REP. DALE SEVERSON:** When someone asks for a criminal background check, is it just the state that you give them? If this law were passed would it be state as well as a federal background check?

**(40.5) JERRY KEMMIT:** Yes. Right now by law, unless there is specific language in statute that will allows me to do the federal check, I can't release that. An example in the medical association is last year they had a Dr. come in from out of state. I was able to run the state check for them and then the Assistant Attorney General, the board asked me to run the Federal check,

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10/21/03  
Date

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House Political Subdivisions Committee

Bill/Resolution Number SB 2223

Hearing Date: March 7, 2003

which I can't even legally release to him. The Doctor had a record but we couldn't release it to the board.

**(43.3) REP. SALLY SANDVIG:** In HB 2253 dealing with the medical examiner, we added language that would provide you guys to cover your cost and then send all of these Bills down to Appropriations because you need a new employee, then would you be covered?

**(43.7) JERRY KEMMIT:** Yes, I think both Appropriations Committee's have discussed these Bills and said they need to do a Conference Committee and then decide what they're going to do.

**(44.2) CHAIRMAN GLEN FROSETH:** We'll have to re-refer this to Appropriations. On the fiscal note it says this Bill by itself does not require an additional FTE, but this and other similar bills, taken as a whole, would require an additional FTE if enacted.

**(44.8) JERRY KEMMIT:** Actually the fiscal note is based on 400 checks and was our best guess.

**(45.6) CHAIRMAN GLEN FROSETH:** Any more testimony in support? Opposed? Hearing none, I will close the hearing on SB 2223. What are the committees wishes?

**(46.5) REP. WILLIAM KRETSCHMAR:** I WOULD LIKE TO PROPOSE AN AMENDMENT. ON LINE 5, AFTER THE SECOND WORD "BY", ADD THE WORDS "ORDINANCE OR."

**(46.7) REP. DALE SEVERSON:** SECOND IT.

**(46.8) CHAIRMAN GLEN FROSETH:** We have a motion on the Bill that would satisfy the concerns that Rep. Wieland had about the home rule counties. Any more discussion? I will take a voice vote: 14-y; 0-n. The amendment carries.

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Operator's Signature

12/21/03  
Date

Page 5

House Political Subdivisions Committee

Bill/Resolution Number SB 2223

Hearing Date: March 7, 2003

**(48.1) REP. RON IVERSON: I MOVE A DO PASS AS AMENDED AND REFER TO APPROPRIATIONS.**

**(48.4) REP. DALE SEVERSON: I SECOND IT.**

**(48.5) CHAIRMAN GLEN FROSETH: Any further committee discussion? Hearing none, I will have the clerk take the Roll Call Vote: 11-y; 0-n; 3-absent; Carrier: Rep. Froseth. (49.7)**

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Deanna D. Smith  
Operator's Signature

10/21/03  
Date

Refer to Appropriations

Date: 3-7-03  
Roll Call Vote #: 3

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~2223~~ 2223

House POLITICAL SUBDIVISION Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended: Refer to Appropriations

Motion Made By Rep. Severson Seconded By Rep.

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	✓				
Vice-Chairman Nancy Johnson	✓				
Rep. Mike Grosz	✓				
Rep. Gil Herbel	✓				
Rep. Ron Iverson	✓				
Rep. William Kretschmar	✓				
Rep. Andrew Maragos	✓				
Rep. Dale Severson	✓				
Rep. Alon Wieland	0				
Rep. Bruce Eckre	0				
Rep. Mary Ekstrom	0				
Rep. Carol Niemeler	✓				
Rep. Sally Sandvig	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Froseth

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

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Dennis O'Neil  
Operator's Signature

10/21/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
March 7, 2003 1:24 p.m.

Module No: HR-41-4263  
Carrier: Froseth  
Insert LC: 30347.0401 Title: .0500

**REPORT OF STANDING COMMITTEE**

**SB 2223, as engrossed: Political Subdivisions Committee (Rep. Froseth, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2223 was placed on the Sixth order on the calendar.

Page 1, line 5, after the second "by" Insert "ordinance or"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

HR-41-4263

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Deanna D. Froseth  
Operator's Signature

10/21/03  
Date

2003 HOUSE APPROPRIATIONS

SB 2223

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Deanna D. Ball  
Operator's Signature

10/21/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2223

House Appropriations Committee  
Government Operations Division

Conference Committee

Hearing Date March 24, 2003

Tape Number	Side A	Side B	Meter #
1		XX	

Committee Clerk Signature *Kelly Schmidt*

Minutes: Committee Work

A DO PASS motion was made by Rep. Thoreson, second by Rep. Glassheim

ROLL CALL VOTE 7 yes 0 No 2 Absent (Skarphol/Koppelman)

Motion Carries.

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*Deanna Wallerth*  
Operator's Signature \_\_\_\_\_ Date 10/21/03

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2223

House Appropriations Committee

Conference Committee

Hearing Date 03-25-03

Tape Number	Side A	Side B	Meter #
1		X	37.0 - 44.1

Committee Clerk Signature *Chris Taylor*

Minutes:

**Chairman Svedjan** Opened SB 2223 for discussion. A quorum was present.

**Rep. Thoreson** There is a General Fund impact of \$12,000.

**Rep. Froseth** This bill is inspired by the Fargo Fire Department that wants to do background checks on new employees. The state can only charge \$20 for the state check, they may not charge for the federal check which costs \$30.52. That is the explanation of the cost.

**Kathy Roll** The amendment on 2041 will take care of 1252, 2223, and 2253.

**Rep. Thoreson** I move a Do Pass. 2nd by Rep. Carlisle.

**Rep. Delzer** The person taking fingerprints and the person in the BCI may charge fees, the way I read that someone could do this for hire.

**Sandy Taylor** They fingerprints could be done by a private entity. Then they are charged to the BCI for the federal background check.

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Operator's Signature

*Deanna D. Hall*

10/21/03

Date

Page 2  
House Appropriations Committee  
Bill/Resolution Number SB 2223  
Hearing Date 03-25-03

**Rep. Delzer** If it is going to be a private individual, why do we need the language saying that the person taking fingerprints under this section may charge a reasonable fee? That is an action taking place before it is in the state's situation.

**Taylor** I don't know the answer, it must just be clarification language.

**Motion Carries 19-1-3. Rep. Froseth will carry this bill.**

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Deanna Ballantyne  
Operator's Signature

10/21/03  
Date

Date:03-24-03  
Roll Call Vote Number #

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2223**

House Appropriations: Government Operations Division Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Thoreson Seconded By Rep. Glassheim

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlisle	x				
Vice Chairman Carlson	x				
Rep. Koppelman					
Rep. Skarphol					
Rep. Thoreson	x				
Rep. Timm	x				
Rep. Glassheim	x				
Rep. Kroeber	x				
Rep. Warner	x				

Total (Yes) 7 No 0

Absent 2  
Skarphol/Koppelman

Floor Assignment Rep. Thoreson

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

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Deanna Walsh 10/21/03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
March 26, 2003 7:46 a.m.

Module No: HR-53-5750  
Carrier: Froseth  
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2223, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)  
recommends **DO PASS** (19 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING).  
Engrossed SB 2223 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-53-5750

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10/21/03  
Date

2003 TESTIMONY

SB 2223

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10/21/03  
Date

**Testimony on Senate Bill 2223**  
**Senate Political Subdivisions Committee**

January 30, 2003

By Bruce Hoover

Mr. Chairman and members of the Committee: my name is Bruce Hoover, Fargo Fire Chief, and a director with the North Dakota Fire Chief's Association. I appear before you today in support of Senate Bill 2223.

The North Dakota Fire Chief's Association and the Fargo Fire Department requested this legislation to provide political subdivisions the ability to perform nation-wide criminal background checks on firefighter candidates. In order to access the FBI database for criminal background checks, there must be authorization in state law. The FBI has issued an opinion that this bill meets their requirements for state authorization.

Our original intent, when visiting with Senator Flakoll, was to have the ability to perform nation-wide criminal background checks on firefighter candidates. However, when corresponding with the FBI, they recommended a broader scope to the legislation. This bill, as suggested by the FBI permits cities to pass ordinances that require background checks on candidates for certain positions, including but not limited to firefighters. The FBI cited as an example, candidates for a water plant operator as a position that cities may want to require nation-wide background checks.

Candidates applying for positions as full time firefighters in North Dakota come from all regions of the U.S. so local criminal background checks do not provide a full picture of the candidate. The individuals that we hire need to be above reproach. Not only is he or she charged with protecting lives and property, but they will enter businesses as well as residences, unescorted when doing their duties as firefighters. I am relatively certain that every one of us hopes that we never need the services of a firefighter at our home, but when we do, we want to be confident that our home or business is in good hands when they do arrive. Additionally, the national security issues that have come to public attention since September 11, 2001, demonstrate the importance of maintaining a public work force that the citizens can count on.

We do not know what the future will bring, so this bill provides cities and counties flexibility in providing secure services for their citizens through local ordinances that would reference this state law.

Mr. Chairman and members of the committee thank you for your consideration and I urge you to pass Senate Bill 2223. I will be happy to answer any questions.

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10/21/03  
Date

Senate Bill 2223  
Before the Senate Political Subdivisions Committee  
Jerry Kemmet, Director  
Bureau of Criminal Investigation  
January 30, 2003

Mr. Chairman and Members of the Committee:

I would like to comment with regard to the fiscal note on SB 2223. It is the responsibility of the BCI to collect and maintain records of criminal arrests and prosecutions and to assemble criminal history records for offenders in the state. It is also our responsibility to release that information for whatever reasons the legislature deems appropriate. We take that responsibility very seriously, and the only thing we request is adequate staff to do that job as accurately and completely as we possibly can.

This bill, by itself, does not put an unmanageable burden on the BCI criminal records staff, but, along with several other bills, it will create the need for an additional FTE in the criminal records unit. Other bills include HB 1252, which would allow the Information Technology Department to conduct state and federal background checks on designated employees and applicants for employment, and SB 2253, which would allow the Board of Medical Examiners to conduct state and federal criminal records checks on applicants for licensure or licensees who are the subject of a disciplinary investigation. An amendment to SB 2041 would allow nonprofit charitable organizations providing services to minors to conduct state criminal background checks on all employees, agents, and volunteers at a reduced fee.

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10/21/03  
Date

Each of these bills, taken by itself, is not anticipated to have a significant impact at present, but if each one of them is enacted, the combined effect will require that we have an additional Identification Technician in the BCI criminal records unit.

We request that you consider the fiscal impact of this bill in conjunction with the others mentioned.

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PROPOSED AMENDMENTS TO SENATE BILL 2223

Page 1, line 9, remove "Criminal" and Insert Immediately thereafter "Federal bureau of Investigation criminal" and remove "when"

Page 1, line 10, replace "received" with "obtained" and after "is" insert immediately thereafter "confidential" and remove "not a public record subject to section 44-04-18 and section 6 of"

Page 1, line 11, remove "article XI of the Constitution of North Dakota"

Renumber accordingly

Will read: Federal Bureau of Investigation criminal history record information obtained by a city or county is confidential.

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10/21/03  
Date

JANUARY 30, 2003

SENATE POLITICAL SUBDIVISIONS COMMITTEE  
SB 2223

SENATOR COOK AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We recognize the concerns behind this bill, but feel it is a bit too broad in one area and request just a teensy amendment for just one sentence.

Criminal history records maintained by the state Bureau of Criminal Investigation (BCI) and various law enforcement agencies are open records. Any individual, for a \$20 fee, can get a copy of a criminal history record from BCI. We do this all the time in my law practice. Therefore, there is no reason why they should be a closed record when obtained by a city.

We would respectfully request the amendment below. It won't detract from the main intention of the bill.

If you have any questions, I'd be glad to try and answer them. Thank you for your time and consideration.

PROPOSED AMENDMENTS TO SB 2223

On page 1, line 9, remove "Criminal history record information when"

On page 1, remove line 10.

On page 1, line 11, remove "article XI of the Constitution of North Dakota."

Renumber accordingly

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10/21/03  
Date

Thursday, January 30, 2003  
Jack McDonald

PROPOSED AMENDMENTS TO SB 2223

Page 1, line 9, remove "Criminal" and replace with "Federal bureau of  
Investigation criminal" and after "Information" insert "is confidential"  
Page 1, line 10, after "county" insert "and" and after "record" inset a period and  
delete the remainder of the sentence.

Renumber accordingly

**FYI**

With this amendment, the sentence will read:

Federal bureau of investigation criminal history record information is confidential  
when received by a city or county and is not a public record.

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10/21/03  
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#2  
3-7-03

Senate Bill 2223  
Before the House Political Subdivisions Committee  
Jerry Kemmet, Director  
Bureau of Criminal Investigation  
March 7, 2003

Mr. Chairman and Members of the Committee:

I would like to comment with regard to the fiscal note on SB 2223. It is the responsibility of the BCI to collect and maintain records of criminal arrests and prosecutions and to assemble criminal history records for offenders in the state. It is also our responsibility to release that information for whatever reasons the legislature deems appropriate. We take that responsibility very seriously, and the only thing we request is adequate staff to do that job as accurately and completely as we possibly can.

This bill, by itself, does not put an unmanageable burden on the BCI criminal records staff, but, along with several other bills, it will create the need for an additional FTE in the criminal records unit. Other bills include HB 1252, which would allow the Information Technology Department to conduct state and federal background checks on designated employees and applicants for employment, and SB 2253, which would allow the Board of Medical Examiners to conduct state and federal criminal records checks on applicants for licensure or licensees who are the subject of a disciplinary investigation. An amendment to SB 2041, seeks to allow nonprofit charitable organizations providing services to minors to conduct state and federal criminal background checks on all employees, agents, and volunteers at a reduced fee.

With the exception of SB 2041, each of these bills, taken by itself, is not anticipated to have a significant impact at present, but if each one of them is enacted,

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Dean M. Walsh 10/21/03  
Operator's Signature Date

#2 3-7-03

the combined effect will require that we add additional Identification Technicians to the BCI criminal records unit.

We request that you consider the fiscal impact of this bill in conjunction with the others mentioned.

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