

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2018**

Bill/Resolution No.: SB 2107

- 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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 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).*

The Bill provides clarifying language regarding the certification program for environmental laboratories under the Department of Environmental Quality (DEQ), repeals language for the same, and allows for the collection of fees.

- 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.*

This bill has no fiscal impact as the DEQ already certifies laboratories and collects fees for certification.

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.*
- 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.*
- 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.*

**Name:** Brenda M. Weisz

**Agency:** Department of Health (DEQ)

**Telephone:** 328-4542

**Date Prepared:** 12/29/2018

**2019 SENATE ENERGY AND NATURAL RESOURCES**

**SB 2107**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2107  
1/10/2019  
Job Number 30636

- Subcommittee  
 Conference Committee

Committee Clerk: Marne Johnson
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### Explanation or reason for introduction of bill/resolution:

A bill relating to the certification of environmental laboratories; certification of laboratories; and to provide an effective date.

### Minutes:

1 Attachment
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**Cindy Auen, Program Administrator, North Dakota Department of Health's Environmental Laboratory Certification Program (NDELCP) (0:15-3:25)** Introduced the bill, please see attachment #1.

**Senator Cook:** 'The department shall establish an administer'. You are going to be drafting rules?

**Ms. Auen:** Yes.

**Senator Cook:** Are you under administrative rules?

**Ms. Auen:** We will be, yes.

**Senator Cook:** Does it make reference to chapter 42? If not, should it?

**Maggie Olson, North Dakota Attorney General's Office, Environmental Health Section:** They are required to adopt rules in accordance with administrative procedure act 28-32. They don't need a specific reference, that is covered elsewhere in the code. They will be adopted with those procedures.

**Senator Piepkorn:** Would give us an overview of some of the labs you work with?

**Ms. Auen:** The program currently certifies drinking water laboratories, that's under that section 6-1-28, we also certify laboratories that provide data under the Clean Water Act under 40 CFR 136, that's under federal statutes. Those laboratories analyze matrices for discharge water, that would include municipalities, any new discharge facilities, there is a laboratory in Wahpeton that isn't associated with the power plant, and power plants are under that statute

as well. We also certify laboratories under the Resource Conservation Recovery Act, and that is analyzing any hazardous wastes matrices.

**Senator Piepkorn:** Any air quality labs?

**Ms. Auen:** We currently don't do air quality, the department handles that under their own program.

**No additional agency testimony, no opposing testimony.**

**Closed hearing.**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2107  
1/11/2019  
Job Number 30680

- Subcommittee  
 Conference Committee

Committee Clerk: Marne Johnson

### Explanation or reason for introduction of bill/resolution:

A bill relating to the certification of environmental laboratories; certification of laboratories; and to provide an effective date.

### Minutes:

No Attachments

**Chair Unruh:** The Department of Health spoke to us about the certification of environmental laboratories. It was fairly straightforward.

**Senator Schaible:** I move do pass.

**Senator Cook:** I second.

A roll call vote was taken  
Motion passes 6-0-0.

Senator Schaible will carry.

Date: 1.11.19  
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2107**

Senate 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 Sen. Schaible Seconded By Sen. Cook

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	X		Senator Merrill Piepkorn	X	
V. Chair Curt Kreun	X		Senator Jim Roers	X	
Senator Dwight Cook	X				
Senator Donald Schaible	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Schaible

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

**REPORT OF STANDING COMMITTEE**

**SB 2107: Energy and Natural Resources Committee (Sen. Unruh, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
SB 2107 was placed on the Eleventh order on the calendar.



**2019 HOUSE ENERGY AND NATURAL RESOURCES**

**SB 2107**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau A Room, State Capitol

SB 2107

3/1/2019

33065

Subcommittee

Conference Committee

Committee Clerk, Kathleen Davis

### Explanation or reason for introduction of bill/resolution:

Relating to the certification of environmental laboratories and to provide an effective date

### Minutes:

Attachment 1

**Chairman Porter:** opened the hearing on SB 2107.

**Cindy Auen, Program Administrator of the ND Dept. of Health's Environmental Lab Certification Program:** presented Attachment 1

**Chairman Porter:** questions? Further testimony in support? Opposition? Closed the hearing.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau A Room, State Capitol

SB 2107  
3/21/2019  
34102

- Subcommittee  
 Conference Committee

Committee Clerk, Kathleen Davis

### Explanation or reason for introduction of bill/resolution:

Relating to the certification of environmental laboratories and to provide an effective date

### Minutes:

**Chairman Porter:** opened the hearing on SB 2107 through DEQ talking about certification of laboratories. We had no opposition to the bill.

**Rep. Roers Jones:** I would move a Do Pass.

**Rep. Anderson:** second.

**Chairman Porter:** We have a motion and a second for a Do Pass on SB 2107. Discussion? Roll call vote. 14 yes, 0 no, 0 absent. Motion carried. Rep Bosch is carrier.

Date: 3-21-19  
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2107**

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 Roers Jones    Seconded By D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep. Bosch	✓		Rep. Ruby	✓	
Rep. Devlin	✓		Rep. Zubke	✓	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Eidson	✓	

Total (Yes) 14    No 0

Absent 0

Floor Assignment Bosch

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

**REPORT OF STANDING COMMITTEE**

**SB 2107: Energy and Natural Resources Committee (Rep. Porter, Chairman)**  
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
SB 2107 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**SB 2107**

SB 2107  
1.10.19  
#1

**Testimony**  
**Senate Bill 2107**  
**Senate Energy and Natural Resources Committee**  
**January 10, 2019, 9:15 a.m.**  
**North Dakota Department of Health/North Dakota Department of**  
**Environmental Quality**

Good morning Chairman Unruh and members of the Energy and Natural Resources Committee. My name is Cindy Auen, and I am the Program Administrator of the North Dakota Department of Health's Environmental Laboratory Certification Program (NDELCP). The NDELCP provides certification for environmental laboratories within the state and reciprocal certification for out-of-state laboratories.

The Department of Health has recognized that reliable and accurate data are foundational to its efforts in environmental and public health protection. The NDELCP, implemented in the 1990s, is a robust laboratory certification program that helps provide this assurance.

Although the department certifies many different types of laboratory operations to ensure regulatory compliance, current statute does not provide for consistent certification for all environmental data. The transition of the department's Environmental Health Section to a stand-alone North Dakota Department of Environmental Quality provides an opportunity to address this concern.

Senate Bill 2107 will give the NDELCP uniform statutory authority for the requirements it fulfills on behalf of statutory regulations and administrative rules for the department (Health or Environmental Quality). But equally as important it will provide a uniform set of requirements for all laboratories which submit compliance or assessment data to the department.

The department relies on analytical data that comes from certified laboratories. State law (NDCC 61-28.1-07 and NDAC 33.1-17-01-05) provides the NDELCP the authority to fulfill laboratory certification requirements for the federal Safe Drinking Water Act.

However, there are presently no state statutes authorizing the NDELCP to fulfill laboratory certification requirements for other programs under the federal Clean Water Act and the federal Resource Conservation and Recovery Act.

Under Section 1 of Senate Bill 2107, the department will be authorized to establish and administer a certification program for environmental laboratories. This includes establishing standards, conducting on-site evaluations, certifying parameter and analytical procedures, issuing certification, establishing fees, and rejecting any testing or data submitted by uncertified laboratories.

The department will continue approval-to-operate certification of environmental laboratories under the present system until the department adopts rules for the issuance of certification under this section.

Section 2 of Senate Bill 2107 repeals NDCC Section 61-28.1-07, relating to laboratory certification requirements for the Safe Drinking Water Act.

Section 3 establishes an effective date of August 1, 2019, if the Legislative Council has received notification that the Department of Health's Environmental Health Section has transitioned to the Department of Environmental Quality.

The department seeks to obtain statutory authority for a uniform laboratory certification process that comprehensively addresses federal regulations the state implements and state primacy requirements.

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



## Testimony

### Senate Bill 2107

#### House Energy and Natural Resources Committee

March 1, 2019, 9:45 a.m.

#### North Dakota Department of Health/North Dakota Department of Environmental Quality

Good morning Chairman Porter and members of the Energy and Natural Resources Committee. My name is Cindy Auen, and I am the Program Administrator of the North Dakota Department of Health's Environmental Laboratory Certification Program (NDELCP). The NDELCP provides certification for environmental laboratories within the state and reciprocal certification for out-of-state laboratories. I am here in support of Senate Bill 2107

The Department of Health has recognized that reliable and accurate data are foundational to its efforts in environmental and public health protection. The NDELCP, implemented in the 1990s, is a robust laboratory certification program that helps provide this assurance.

Although the department certifies many different types of laboratory operations to ensure regulatory compliance, current statute does not provide for consistent certification for all environmental data. The transition of the department's Environmental Health Section to a stand-alone North Dakota Department of Environmental Quality provides an opportunity to address this concern.

Senate Bill 2107 will give the NDELCP uniform statutory authority for the requirements it fulfills on behalf of statutory regulations and administrative rules for the department (Health or Environmental Quality). But equally as important it will provide a uniform set of requirements for all laboratories which submit compliance or assessment data to the department.

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The department seeks to obtain statutory authority for a uniform laboratory certification process that comprehensively addresses federal regulations the state implements and state primacy requirements.

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