

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2160

2007 SENATE JUDICIARY

SB 2160

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2160**

## Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1213

Committee Clerk Signature *Maria L. Solberg*

**Minutes:** Relating to records of nonprofit organizations providing support for higher ed. Institutions

**Senator David Nething**, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

### Testimony In Support of Bill:

**Sen. Robinson**, Dist. #24 Opened and introduced the bill (meter 0:01) Spoke of who approached him to sponsor this bill. There are 11 institutions that this will effect. Att. # 2

**Rep. Aarsvold**, Dist. #20 In support of the bill Sen. Robinson gave his testimony (Meter 2:20) Sen. Robinson spoke of his position at the University compared to another who is a salaried employee. Referred to Email support he had received (meter 4:30)

**Sen. Nething** questioned line 8, (meter 6:15) how the current law allows financial/tax records as already being exempt. Yes, but there are other issues out there that are not covered, this bill fills in the loop holes not covered (meter 6:30)

**Sen. Nelson** questioned about the "glossy" book they print of the donors and at what level they donate-will they be unable to do this? No they will still be able to do this. (meter 8:00)

Discussion of annual reports and other type of documentations.

**Gordon Binek**, Interim President and Vice President of BSC (meter 9:13) Gave testimony – Att. #1.

**Sen. Fiebiger** requested a definition of “affiliated non-profit organization” (meter 10:49) and how wide spread this title would fall. **Sen. Olafson** question “net worth” of donors (meter 11:30) Mr. Binek discussed the information he has from working in this field the past 23 years. **Sen. Fiebiger** question the language “any record related to perspective donor” (meter 12:54) was to broad? Discussion of this. They also discussed different types of publications.

**Testimony in Opposition of the Bill:**

**Jack McDonald**, Lobbyist for the Broad Casters Assoc. & News Paper Association (meter 15:17) I am not entirely opposed to the bill it is some of the language we have problems with. We are in opposition to line 11 language “any record” is overly broad. The original statute we did not have an opposition to. Restrictive language in line 9 and 10-there are some foundations that this does not effect and some the original bill does not protect. This bill by using “any records” effects to many things. Mr. McDonald requested to do a friendly amendment that would do what the bill is trying to do with out using such broad language (meter 17:50) **Sen. Nelson** spoke of ways to do this.

**Sen. Nething** requested **Sen. Fiebiger** to work with Mr. McDonald to come up with an amendment .

**Testimony Neutral to the Bill:**

None

**Senator David Nething**, Chairman closed the hearing.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2160**

### Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1296

Committee Clerk Signature

*Maria L Solbey*

**Minutes:** Relating to records of nonprofit organizations providing support for higher ed.

Institutions

**Senator David Nething**, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

The Committee reviewed amendment – Att. #1a and #1b, presented to them by **Sen. Fiebiger** and was discussed.

**Sen. Fiebiger** made the motion to Do Pass Amendment 1a and **Sen. Lyson** seconded the motion. All members were in favor and motion passes.

**Sen. Fiebiger** made the motion to Do Pass Amendment 1a and **Sen. Lyson** seconded the motion. All members were in favor and motion passes.

**Carrier:** Sen. Fiebiger

**Senator David Nething**, Chairman closed the hearing.



Handwritten signature and date "1-18-07".

PROPOSED AMENDMENTS TO SENATE BILL NO. 2160

Page 1, line 8, after the third comma insert "electronic mail address, estate planning information", after "tax" insert "record", and overstrike "record" and insert immediately thereafter "information"

Page 1, line 9, after "information" insert "or correspondence"

Page 1, line 10, overstrike "is exempt from section 44-04-18 and section 6 of article XI of the Constitution of"

Page 1, line 11, overstrike "North Dakota.", remove "Any record related to a donor or prospective donor which is received", and remove "retained"

Page 1, line 12, replace "a" with "an affiliated"

Page 1, line 13, replace "from" with ". For the purposes of this section, "financial information" includes data that provides details regarding a gift, a payment schedule of a gift, the form of a gift, or the specific amount of a gift made by a donor."

Page 1, remove line 14

Renumber accordingly



Date: 1-17-07  
Roll Call Vote # 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2160

Senate \_\_\_\_\_ Judiciary \_\_\_\_\_ Committee \_\_\_\_\_

Check here for Conference Committee

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

Action Taken Do Pass as Amended

Motion Made By Sen. Fiebiger Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Fiebiger

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

**REPORT OF STANDING COMMITTEE**

**SB 2160: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2160 was placed on the Sixth order on the calendar.

Page 1, line 8, after the third comma insert "electronic mail address, estate planning information,", after "tax" insert "record", and overstrike "record" and insert immediately thereafter "information"

Page 1, line 9, after "information" insert "or correspondence"

Page 1, line 10, overstrike "is exempt from section 44-04-18 and section 6 of article XI of the Constitution of"

Page 1, line 11, overstrike "North Dakota.", remove "Any record related to a donor or prospective donor which is received", and remove "retained"

Page 1, line 12, replace "a" with "an affiliated"

Page 1, line 13, replace "from" with ". For the purposes of this section, "financial information" includes data that provides details regarding a gift, a payment schedule of a gift, the form of a gift, or the specific amount of a gift made by a donor."

Page 1, remove line 14

Renumber accordingly

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2160

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2160

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 15, 2007

Recorder Job Number: 5170

Committee Clerk Signature



Minutes:

**Sen. Robinson:** *I'm going to make some brief comments on this bill. The bill before you was heard on the Senate side in the Judiciary committee. I might add that they spent some time on this bill. Anytime that you deal with the issue of open records there is a lot of sensitivity. On the Senate side we have a census involvement with Jack McDonald. He was very involved in crafting these amendments and working through the bill. What you have before you represents consensus on the right thing to do. This bill is being introduced at the request of several foundation officers of the ND University System. The intent of the bill is to exempt some information of the donors of those institutions from open records. The privacy of this information is critical to the work that a foundation officer needs. Many donors wish to remain anonymous with their giving. Unfortunately some donors who have made gifts to one institution find themselves solicited by numerous other charities immediately following the timing of the gift. Some of the information that the bill intends to address is issues such as electronic mail, tax records, estate planning, etc. These schools are organized to provide support for their respective institutions. This bill will help them ensure that the donors there receive the privacy that they deserve. I urge your support of SB 2160. I serve as the foundation officers for one of the member schools of the NDUS. I can assure you that this very delicate issue. Picture*

*yourself of supporting your charity. You submit a contribution and within days you have 3 or 4 others soliciting you because that knowledge somehow got out. The donors want privacy. Some of them want to be totally anonymous. In this day and age when so much information is available, the intent here is to restrict some of that information. We are never going to have a fool proof system. We need to work on what we have. As for the officers on several other foundations, they want to remain anonymous. What we have here is a consensus. We have come together because we had concerns. We want to work with you. We aren't trying to do anything here that is at all wrong in any way. There has got to be a happy medium. We feel we have it in the changes that were made. With that I would stand for questions.*

**Gordy Binnick:** *BSC. I too am in support of this bill. A couple of issues I want to talk about. As the bill was written previously there was a feeling that it did not protect the foundation themselves. Rather it talked about the colleges and so on. Then it was modernized for electronic email addresses and so forth. I've been doing this foundation work for 23 years. I can tell you that I was asked on the Senate side if the public solicits the donors. People often do that. We do some of that. We want to protect the donors who want to remain anonymous and their specific information in terms of how much was actually contributed. We asked the owners for permission when we do disclose information. As I said I've been doing this for 23 years now. I know a lot of things about a lot of people's financial situation that they don't want to disclose to others. If you want to throw cold water on someone making a charitable gift is tell them that the information might become public someday. These are very important changes to the record. It's improving the situation that did exist. I support this bill.*

**Rep. Dahl:** I just have one question. The foundations are private correct?

**Gordy Binnick:** Yes.

**Rep. Dahl:** They are not considered private.

**Gordy Binnick:** No, they are non profit corporations.

**Rep. Kasper:** What type of entities or organizations have asked you for this type of information that you wished you wouldn't have had to give but you have to because of the open records law.

**Gordy Binnick:** We have never been in this situation where we have had to tell someone that we wouldn't disclose that information. I think that the media has been very cooperative with this. I can see a situation where some day someone will come to us and say that they demand that information. In that case we would have to give it to them.

**Rep. Kasper:** How long as your foundation been in existence?

**Gordy Binnick:** We've been in existence since 1978. There was a situation where the NDUS was asked for specific donor information.

**Rep. Kasper:** In your particular case it is 27 years that you have not had a single request of your work.

**Gordy Binnick:** Not that I'm aware.

**Rep. Amerman:** Can you give me some examples of an affiliated non profit organization?

**Gordy Binnick:** The BSC foundation. That would be the type of affiliated non profit organization that we are talking about. The foundations that serve the members of the NDUS.

**Rep. Haas:** Is there any more testimony for SB 2160? If not we will close the hearing on SB 2160.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2160

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 15, 2007

Recorder Job Number: 5173

Committee Clerk Signature

*Morgan Lemuel*

Minutes:

**Rep. Haas:** What are your wishes on SB 2160?

**Rep. Kasper:** Part of my work over the years has been in the state planning board. A number of them have made charitable contributions. I can assure you that in almost all cases that they make this contribution because they want to help the charity. They don't want fame and glory. They want things to be private. It is very difficult for these fundraising entities because you are asking people to give up a wealth for themselves and their family. So when a donor knows what they do and give may become public, that doesn't help the charities and fundraising entities. So with that I move a do pass.

**Rep. Wolf:** I Second that.

**Rep. Haas:** Is there any discussion? If not we will take a roll call vote on a do pass motion for SB 2160. The do pass motion for SB 2160 passes with a vote of 11-2-0. Is there a volunteer to carry this bill?

**Rep. Wolf:** I will.



**REPORT OF STANDING COMMITTEE (410)**  
March 15, 2007 4:21 p.m.

**Module No: HR-49-5503**  
**Carrier: Wolf**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2160, as engrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends DO PASS (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2160 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

SB 2160 .

**Remarks of Gordon Binek  
Vice President for College Advancement and Federal Relations  
Bismarck State College**

**For Senate Judiciary Committee  
January 16, 2007**

Senate Bill No. 2160

The proposed change to 44-04-18.15 is important to Bismarck State College Foundation for two reasons:

The current statute does not specifically include organizations such as Bismarck State College Foundation. Although BSC Foundation is organized to support and assist the development and advancement of Bismarck State College, it may not be covered under the existing statute.

Donors and prospective donors to Bismarck State College Foundation must have confidence that the proprietary information they share with representatives of BSC Foundation is protected from record searches. Donors and prospective donors disclose personal, confidential information as they consider and enter into planned giving arrangements. Such information needs to remain confidential. Details, such as how much individuals have contributed also needs to remain confidential. If such information were open to public disclosure it would be a disincentive for many donors, they would not make major contributions which support and assist the NDUS colleges and universities and the students we serve.

1-17-07  
AH #1a

SENATE BILL NO. 2160

Introduced by

Senators Robinson, Grindberg, Wardner  
Representatives Aarsvold, N. Johnson, Martinson

A BILL for an Act to amend and reenact section 44-04-18.15 of the North Dakota Century Code, relating to records of nonprofit organizations providing support for higher education institutions.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

SECTION 1 AMENDMENT. Section 44-04-18.15 of the North Dakota Century Code is amended and reenacted as follows:

**44-04-18.15 – Fundraising and donor records of the board of higher education university system, and affiliated nonprofit organizations exempt.** Any donor or prospective donor name, address, telephone number, email address, estate planning information, tax record or financial record information; including data detailing dates of gifts, payment schedule of gifts, form of gifts and specific gift amounts made by donors; or other personal information and correspondence received or retained by a board of higher education or university system officer or employee, or by an affiliated nonprofit organization that provides support to and is organized and operated for the benefit of an institution under the authority of the board of higher education, is exempt.

Sixtieth  
Legislative Assembly  
of North Dakota

SENATE BILL NO. 2160

Introduced by

Senators Robinson, Grindberg, Wardner

Representatives Aarsvold, N. Johnson, Martinson

1-17-07  
Att #16  
Ed - How does this look? This OK w/ Sen. Robinson.  
Jack  
AS soon as I get word from Gordon Bueche, I'll do an amendment for you

1 A BILL for an Act to amend and reenact section 44-04-18.15 of the North Dakota Century Code,  
2 relating to records of nonprofit organizations providing support for higher education institutions.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 44-04-18.15 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **44-04-18.15. Fundraising and donor records of board of higher education and,**  
7 **university system, and affiliated nonprofit organizations exempt.** Any donor or  
8 prospective donor name, address, telephone number, (E-MAIL ADDRESS, ESTATE PLANNING INFORMATION,) tax or financial record, or other personal  
9 information received or retained by a board of higher education or university system officer or  
10 employee <sup>OR</sup> ~~is exempt from section 44-04-18 and section 6 of article XI of the Constitution of~~  
11 ~~North Dakota. Any record related to a donor or prospective donor which is received or retained~~  
12 by a nonprofit organization that provides support to and is organized and operated for the  
13 benefit of an institution under the authority of the board of higher education, is exempt from  
14 section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

Att #2

1-16-07

January 16, 2007

Senator Dave Nething, Chairperson  
Senate Judiciary Committee  
Testimony- Senate Bill 2160

Mr. Chairperson and Members of the committee. Senate Bill 2160 is being introduced at the request of several of the foundation officers in the North Dakota University System. The intent of the bill is to exempt a variety of information of the donors of these respective institutions from open records. Mr. Chairperson and members of the committee, the privacy of this information is critical to the work of the foundation officers. Many donors wish to remain anonymous with their giving. Unfortunately, some donors who have made gifts to one institution, find themselves solicited by numerous other charities immediately following their gift. Some of the information that the bill attempts to exclude from open records is the electronic mail address, tax records, estate planning information, etc.

Mr. Chairperson and members of the committee. The foundations at the NDUS member schools are organized to provide support for their respective institutions. This bill will help them insure that the donors they are working with receive the privacy that they deserve. I urge your support of Senate Bill 2160.

Thank you.

  
Senator Larry Robinson, District 24