

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2315

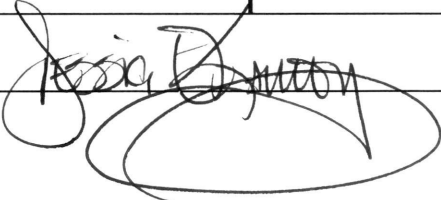
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2315

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 1, 1999

Tape Number	Side A	Side B	Meter #
	x		1800-3400
Committee Clerk Signature 			

Minutes:

SENATOR MUTCH: OPEN THE HEARING ON SB2315

SENATOR AUBYN: Introduce this bill, see testimony

KENNETH INMAN: support and four areas of record retention and the length of how long these records can be kept, SEE TESTIMONY

SENATOR KLEIN: what we are looking to do is destroy the records after 3 years

SENATOR KREBSBACH: requirements for state and local governments

KENNETH INMAN: each department varies and every agency has control over their own records

SENATOR MUTCH: is this a private organization

KENNETH INMAN: records management

SENATOR MUTCH: for the private sector

Page 2

Senate Political Subdivisions Committee

Bill/Resolution Number Sb2315

Hearing Date February 1, 1999

WILLIAM ROACH: SUPPORT, SEE TESTIMONY

SENATOR MUTCH: North Dakota law, laws not like the Internal Revenue Service

SENATOR SAND: payroll guide charts must be kept three years, is that a federal or state law

WILLIAM ROACH: several different laws, federal says two to three years, ND job service says

it must be kept for five years, federal Gov. gives the right to employees to request their time

sheets for four years

SENATOR MUTCH: allot of regulation that won't be affected by this bill.

WILLIAM ROACH: that is correct

SENATOR KREBSBACH: for each industry it's different

SENATOR MUTCH: opposed or for this bill

HEARING CLOSED

SENATOR MATHERN: MOVES FOR DO PASS ON SB2315

SENATOR KREBSBACH: SECONDS THE MOTION

The motion carried with a 7-0-0 vote.

SENATOR MATHERN WILL CARRY THE BILL.

Date: 2/1/99
Roll Call Vote #: 2315

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By MATHELN Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment MATHELN

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

REPORT OF STANDING COMMITTEE (410)
February 1, 1999 11:57 a.m.

Module No: SR-20-1581
Carrier: D. Mathern
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2315: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2315 was placed on the Eleventh order on the calendar.

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2315

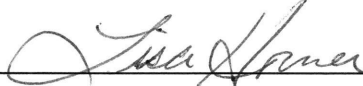
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2315

House Industry, Business and Labor

Conference Committee

Hearing Date 2-15-99

Tape Number	Side A	Side B	Meter #
1	x		44.5--55.0
		x	0.0-2.4
Committee Clerk Signature 			

Minutes: BILL SUMMARY: To adopt the uniform preservation of private business records act.

Chairman Berg opened the hearing.

Ron Ness, Retail Association : 45.5 testified in support of bill. Some laws carry a record of how long they should be held until they are destroyed, some don't. The IRS has certain rules. This would place something in statute that would give employers and those businesses that deal with these issues, a basis to follow. There are different rules for different laws.

Chairman Berg : 47.2 Can you give us an example of records that would fall into this.

Ron : There are a number, but I can't think off hand.

Chairman Berg : 47.9 Would passing this bill require businesses, who are discarding certain information now because it's not required by tax law, be required to keep it?

Ron : I don't think so. I think it offers a level of security for those employers. We know we can throw it after three years.

Rep. Ekstrom : 49.7 Does this limit someone's liability in terms of keeping a record or not?

Page 2

House Industry, Business and Labor

Bill/Resolution Number SB 2315

Hearing Date 2-15-99

Ron : 50.2 I think this allows the employer, at some point, to determine that he doesn't need to keep the documentation around any longer. Closure to the issue.

Rep. Keiser : 51.0 Should there be an implementation schedule in this section. Where does it begin. It shouldn't be retroactive. We may want language to that effect.

Ron : The gray area is what we are concerned about. This will eliminate the gray area.

Rep. Stefonowicz : 53.6 Are we entering into an area we don't want to by saying you have permission to throw some things. (tape 1, side B)

Chairman Berg : Maybe we should get a list of those records he's talking about, so we know. The intent is probably harmless. We need to speak to the sponsor.

Rep. Koppang : Do we really need this?

Chairman Berg: We will close this hearing and wait for further information. 2.4

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2315

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-1-99

Tape Number	Side A	Side B	Meter #
1		x	3400 - 4640
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: **SB 2315**

Chairman Berg opened the discussion of SB 2315.

Rep. Koppang explained the added testimony supporting the bill.

Rep. Koppang made a motion for a Do Pass.

Rep. Froseth second the motion.

The roll call vote was 14 yea, 0 nay, 1 absent.

The motion carried.

Rep. Koppang will carry the bill.

Date: 3-1-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2315

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Koppang Seconded By Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Berg	/		Rep. Thorpe	/	
Vice Chairman Kempenich	/				
Rep. Brekke	/				
Rep. Ekstrom	/				
Rep. Froseth	//				
Rep. Glassheim					
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Koppang

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

REPORT OF STANDING COMMITTEE (410)
March 1, 1999 4:26 p.m.

Module No: HR-36-3815
Carrier: Koppang
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2315: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2315 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2315

My name is Kenneth C. Inman and I am here to support the passing of the Bill to adopt part of the Uniform preservation of Private Business Records Act. I have been involved with records management since I started Modern Information Systems. I am the Vice President of the Fargo-Moorhead ARMA Chapter (Association of Records Managers and Administrators). I also have been awarded both the Masters and Laureate of Micrographics and Imaging Technology by AIIM (Association of Information and Image Management).

There are basically four types of legal requirements for records retention which are generally encountered:

1. Specific Requirement Stated. Many federal and state requirements will indicate a specific retention period for records. This makes it relatively easy to generate a legally correct records retention schedule.

2. Limitations of Action. These represent the period during which an organization may be involved in a legal action or litigation (either as plaintiff or defendant).

3. No Retention Period Stated. A large number of statutes and regulations contain phrases such as “the following records shall be maintained . . .” Therefore, records have to be maintained but for how long is unknown – it could be days, months, years or permanent! Unfortunately, many attorneys and non attorneys alike interpret this type of requirement to mean that the record must be kept “permanently” since so permission is given for destruction.

4. No Records Maintenance or Retention Requirements Found After Research. A researcher is unable to find anything that addresses certain records. Often in this case, researchers feel extremely uncomfortable and mistakenly establish long-term retention periods “in case they missed something.”

Records managers will often encounter statutes and regulations which state that certain records must be maintained, but fail to provide a specific retention period. This is very typical. In fact, 50% of all federal statutes and regulations do not state specific retention periods.

The United States Congress passed the Paperwork Reduction Act in 1980. It was designed to control paperwork burdens that the federal government can place on the public. It

also empowers the Office of Management and Budget to develop regulations to implement the Act.

One of the regulations that was developed state that the retention period may be no longer than three years unless the submitting agency demonstrates that a longer period is necessary or unless the records relate to health, medical or tax records. In the absence of a specific records retention period OMB allows you to assume that the records retention period is no longer than three years and that records can safely be destroyed after that time.

Four states (Illinois, Maryland, New Hampshire and Oklahoma) have adopted the “Uniform Preservation of Private Business Records Act.” Section 2 of the UPPBRA basically states what section 2 of the proposed bill states. “Unless a specific period is designated by law for preservation, any business record that state law requires a person to keep or preserve may be destroyed after the expiration of three years from the making of the record without constituting an offense under state law. This section does not apply to any minute book of any corporation or to any record of sales or other transactions involving a weapon, poison, or other dangerous article of substance capable of use in the commission of a crime.”

If this bill is not adopted, how long must records be maintained but no retention period is stated. One answer is “a reasonable period of time.” What is reasonable? Who decides? The federal government by means of the OMB has stated three years are reasonable unless specifically stated. Further, the IRS only requires most tax records need only be kept for three years.

This act will reduce the paperwork burdens of both large and small organizations and take much of the presumptions or guesses out of Records Management.

Testimony on SB 2315
Senate Industry Business and Labor
February 1, 1999

Mister Chairman and members of the Industry Business and Labor Committee, for the record I am Senator Rod St. Aubyn, representing District 43 in Grand Forks. SB 2315 has been introduced to adopt the Uniform Preservation of Private Business Records Act. This Uniform Act covers the period of preservation of business records and establishes a standard for the preservation of reproductions. Section 1 covers the definitions within this act. Section 2 basically states that unless specified otherwise, business records may be destroyed after 3 years. This would not apply to certain types of transactions or where otherwise specified in statute. Section 3 covers the preservation of reproductions. As an example, if a business utilizes microfilm as part of regular business, the preservation of the reproduction, microfilm in this example, constitutes compliance with any state law requiring that a business record be preserved.

Mr. Chairman and committee members, this is really a simple bill. I ask for your support for a Do Pass on SB2315. Thank you.

Written Testimony: SB2315

My name is William Roach, and I am here to provide verbal and written testimony in support of SB 2315. I am a Certified Records Manager and past President of the Bismarck/Mandan Association of Records Managers and Administrators Chapter.

There are numerous requirements for creation, maintenance, and retention of records found in both the North Dakota Century and Administrative Codes. Most include language that identifies how long the records are to be maintained. However, there are a number of exceptions where a clear requirement to create or maintain records is indicated but no retention timeframe is provided.

One example of such language can be found in N.D.A.C. 17-03-01-01. The section identifies unprofessional conduct by chiropractors.

- 3. Failing to maintain a patient record and a billing record for each patient...Unless otherwise provided, all patient records must be maintained for at least six years.**

The regulation requires maintenance of two distinct types of records, patient records and billing records. But a retention timeframe is provided only for the patient record.

Another example can be found in N.D.A.C. 33-10-06-03. This section addresses administrative controls required for operation of X-ray systems.

- 2. Individuals who will be operating the X-ray systems shall be adequately instructed in the safe operating procedures...Records must be maintained by the registrant to demonstrate compliance with this paragraph.**

In this section a clear requirement exists to create and maintain records but no timeframe is identified.

Passing Senate Bill 2315 would provide organizations with a default retention timeframe of three years when a specific timeframe does not exist in statute or regulation. This would be consistent with other states that have enacted this Uniform Law and with the language of the recently reauthorized federal Paperwork Reduction Act of 1980.

Managing information, whether in paper or electronic form, is a critical business function. Determining what information should be maintained and for how long is an important part of this activity. Maintaining records longer than necessary can be a considerable expense. SB 2315 would provide organizations with a baseline retention timeframe which they can use to make important business decisions.

Testimony on SB 2315

The Uniform Preservation of Private Business Records Act

Prepared by Rep. Myron Koppang

1. Federal and state statutes and regulations contain thousands of requirements to create and retain records.
2. In most instances the requirement also provides a time period, usually in years, that the records must be retained.
3. However, there are a significant number of instances where there are requirements to retain records and no time frame is provided. For example:
 - a) Unprofessional conduct by chiropractors. They are required to maintain a patient record and a billing record. Patient records must be retained for 6 years and no time frame for the billing records.
 - b) Records must be maintained to demonstrate adequate instruction in safe operating procedures of x-ray systems. No retention time frame is provided.
4. SB 2315 would provide that, when retention is required and a specific time frame is not stated, the records may be disposed of after three years. Organizations would still have the ability to determine what is an appropriate retention time frame. This legislation does not impact existing retention requirements.
5. SB 2315 also makes reproduction of an original business record compliance with state law.
6. Passage of this bill will help North Dakota organizations to increase efficiency and reduce costs by allowing the destruction of records on a timely basis.

2011-11-17

Written Testimony in Support of SB2315

I am providing this testimony in support of SB2315, "The Uniform Preservation of Private Business Records Act."

My name is William Roach and I am a Certified Records Manager employed with LTM Business Concepts of Bismarck, North Dakota. A great deal of my time is spent researching legal requirements for record retention.

Federal and state statutes and regulations contain thousands of requirements to create and retain records. In most instances the requirement also provides a time period, usually in years, that the record must be retained. However, there are a significant number of instances where there is a requirement to retain records and no timeframe is provided.

An example of this can be found in N.D.A.C. 17-03-01-01.3 which addresses unprofessional conduct by chiropractors. The section requires maintenance of "a patient record and a billing record." But a retention requirement exists only for the patient record; "Unless otherwise provided, all patient records must be retained for at least six years." No retention timeframe is provided for the billing record.

Another example can be found N.D.A.C. 33-10-06-03. General Requirements. The section requires records be maintained to demonstrate adequate instruction in the safe operating procedures of X-ray systems. No retention timeframe is provided.

The legislation proposed in SB2315 would provide that when retention is required and a specific timeframe is not stated, the records may be disposed of after three years. Nothing in this legislation requires that the records be retained for three years. Organizations would still have the ability to determine what is an appropriate retention timeframe. The legislation will not impact any existing records retention requirements where a retention timeframe is identified. The legislation will benefit the public by limiting the permanent retention of records out of fear. Considerable funds are expended each year to microfilm, image, or store records that are outdated, obsolete, and unneeded. SB2315 will eliminate much of this wasted activity.

The legislation is similar to that already in existence on the federal level. One of the key components of the recently re-authorized "Paperwork Reduction Act of 1990" was language which created a "Three Year Presumption." The Act provides that any record retention requirement in excess of three years must be justified by the regulatory body and approved by the Office of Management and Budget. Where a requirement existed to maintain or retain records and no timeframe was provided, the Act states that three years is long enough.

The basic language in SB2315 was developed as a Uniform Law and has been passed in at least seven other states. Passage of this legislation will help North Dakota organizations to increase efficiency and reduce costs by allowing the destruction on records on a timely basis.

A do-pass recommendation would be appreciated.

Thank you

Testimony on SB 2315
House Industry Business and Labor
February 15, 1999

Chairman Berg and members of the Industry Business and Labor Committee, for the record I am Senator Rod St. Aubyn, representing District 43 in Grand Forks. SB 2315 has been introduced to adopt the Uniform Preservation of Private Business Records Act. This Uniform Act covers the period of preservation of business records and establishes a standard for the preservation of reproductions. Section 1 covers the definitions within this act. Section 2 basically states that unless specified otherwise, business records may be destroyed after 3 years. This would not apply to certain types of transactions or where otherwise specified in statute. Section 3 covers the preservation of reproductions. As an example, if a business utilizes microfilm as part of regular business, the preservation of the reproduction, microfilm in this example, constitutes compliance with any state law requiring that a business record be preserved.

Mr. Chairman and committee members, this is really a simple bill. I ask for your support for a Do Pass on SB2315. Thank you.

*Records that come
under this provision are*