

**2019 SENATE POLITICAL SUBDIVISIONS**

**SB 2078**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

SB2078  
1/4/2019  
Job number 30413

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Jo Wocken

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

Relating to the authority to adopt rules for records management and forms management

### Minutes:

Written testimony #1 Greg Hoffman ITD department

**Chairman Burckhard** opened the hearing on SB2078. All senators are present.

**Mr. Greg Hoffman**, Director of Administrative Services, ITD department, in support of SB2078. Written testimony #1,

**Sen. Anderson:** It seems to me like the one who was charged with adopting is the administrator and not the ITD department, so how do you translate that into what you thought ITD should be adopting your roles?

**Mr. Greg Hoffman:** You are correct in the language. It talks about the administrator and the administrator is currently an employee within ITD, so it's Becky Lingles, States Record Administrator. That position resides within ITD and therefore looks to be that ITD does administrative rules which we do not have the ability to do. When this position resided in OMB a number of years ago, it does have the ability to do the administrative rules. It is just that when this position moved between agencies, language within Century Code was never cleaned up.

**Sen. Anderson:** So someplace out there, there are rules that have been adopted about this and then later on they can come to the Administrative Rules Committee and repealed the rules too, right?

**Mr. Greg Hoffman:** I do believe from the records management perspective yes, there are a number of programs and initiatives which they have put in place from record management and OMB is a part of that.

**Sen. Dotzenrod:** These repealers' up here at the top on Line 2, are those repealers just references to the 2032 or some other references and that's why they are being deleted or are there some other things in those that would indicate that we're making changes?

**Mr. Greg Hoffman:** You are correct. The two areas that we are removing are referring specifically to the administrator making administrative rules which we don't have the authority to do. So those are the two areas that are being removed. The area that is being modified then is the area that basically talks about establishing a uniform system and we would prefer to have that say "uniform program" rather than a system. In our mind we have a records management system and we don't want it to reflect that we would require anyone or everyone to use that particular system but rather the records retention and records management program that our records administrator would lay out.

**Sen. Dotzenrod:** At the state level we have a state level of government bills and agencies that are using state system of ITD and we want uniformity within that system. Subdivisions of the state that want to use information technology can through by complying with the rules that the state has set forth, now they can take advantage of that state system and probably some way they can fit themselves as a subdivision of the state into this state system and what this is trying to do, is make clear that if they want to do that, they have to make sure that their procedures if they have at the local level are consistent with what is required by the state. Is that how the system works?

**Mr. Greg Hoffman:** At a high level, yes I believe you are correct with that so we have a records management program that state agencies, university systems and such are utilizing today which lays out, (records retention policies, how long you keep documents). This language would open the ability that if a political subdivisions want to utilize that same program they are more than welcome to.

**Chairman Burckhard** asked for testimony from those in opposition of the bill and in a neutral testimony. Hearing none we will close this hearing.

**Senator Judy Lee** Move a do pass on SB 2078.

**Senator Diane Larson** 2<sup>nd</sup>.

**Senator Dotzenrod:** To clarify, this didn't come out of an interim committee did it? This is something like an agency bill. **Chairman Burckhard:** It came out as a request from the IT department.

**Roll call vote:** 6 Yea, 0 No, 0 Absent

**Carrier:** **Senator Dotzenrod**

Date: January 4, 2019  
Roll Call Vote :

**2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2078**

Senate Political Subdivisions 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. Judy Lee    Seconded By Sen. Diane Larson

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	X		Sen. Jim Dotzenrod	X	
V. Chairman Howard Anderson	X				
Sen. Jordan Kannianen	X				
Sen. Judy Lee	X				
Sen. Diane Larson	X				

Total (Yes) 6    No 0

Absent 0

Floor Assignment Sen. Dotzenrod

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

**REPORT OF STANDING COMMITTEE**

**SB 2078: Political Subdivisions Committee (Sen. Burckhard, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2078 was placed on the Eleventh order on the calendar.

**2019 HOUSE POLITICAL SUBDIVISIONS**

**SB 2078**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

SB 2078  
2/28/2019  
Job # 32999

- Subcommittee  
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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### Explanation or reason for introduction of bill/resolution:

Relating to records management; relating to the authority to adopt rules for records management and forms management

### Minutes:

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**Chairman J. Dockter:** Opens the hearing on SB 2078.

**Becky Lingle:** State Records Management Administrator with Information Technology Department. (handout #1) Read her testimony.

**Rep K. Koppelman:** This bill primarily deals with cities, counties and park district records however one section of the bill you seek to repeal in the bill it appears it does not. It appears to deal with ITD specifically. Can you explain why you want that repealed?

**Ms. Lingle:** ITD doesn't issue administrative rules. We use standard guidelines and procedures to effectuate the management program whether is it for state agencies or local government.

**Rep K. Koppelman:** Those standards you create what type of force or effect do they have?

**Ms. Lingle:** We conduct reviews in the state agencies of their management program. We report findings back to the management but at this time there is no enforcement. The state auditor's office does mention records management as part of their performance reviews. But we have not had to penalize anyone for not following it.

**Rep K. Koppelman:** But it concerns me that ITD wants to remove itself from requirement of Chapter 28-32 while other agencies of government are bond by that chapter. I'm still unclear why you want to escape that?

**Ms. Lingle:** Because ITD does not issue administrative rules for other parts of our business.

**Rep K. Koppelman:** But the law says you may.

**Ms. Lingle:** Yes.

**Chairman J. Dockter:** Closed the hearing on SB 2078.

**Rep K. Koppelman:** I would like to propose an amendment. On line 16 remove 54-44.6-08 from the appeal section. The reason for an amendment is this chapter requires most of the state agencies to comply with that process. Makes a motion for that amendment.

**Rep. Longmuir:** Second the motion on the amendment.

**Rep. Ertelt:** It's to remove section 2?

**Rep K. Koppelman:** It's just removing 54-44.6-08 that reference in the repeal section.

**Rep. Ertelt:** That chapter is for forms only, not records as a whole.

**Rep K. Koppelman:** I believe that 54-46-13 be struck out as well. That does deal with state and county social service records. I would consider striking Section 2 rather than just that one item of the bill and make the suggested amendment. I will withdraw my previous motion.

**Rep. Longmuir:** Withdrew his second.

**Rep K. Koppelman:** My motion is to remove section 2 of the bill and further amendment 54-44.6-08. After the word rules to add in accordance with chapter 28-32. The effect will be removing the cities, counties and park districts of this responsibility.

**Rep. Longmuir:** Second the amendment.

**Rep. Hatlestad:** Inaudible.

**Rep K. Koppelman:** That is a title item so that will automatically be updated as the bill is corrected.

**Voice vote carried.**

**Rep K. Koppelman:** Made a do pass as amended motion.

**Rep. Adams:** Second the motion.

**Vice Chairman Pyle:** These rules are records retention for different bookkeeping items for cites, counties and townships. It lays out the guidelines of how long have to keep records.

**Rep K. Koppelman:** It appears the bill would be removing the requirement that they are not following already.

**Vice Chairman Pyle:** The League of Cities is suggesting we should follow this.

House Political Subdivisions Committee

SB 2078

2/28/2019

Page 3

**Vote yes 14, no 0, absent 0.**

**Vice Chairman Pyle:** Will carry the bill.

DP 2/28/19

19.8023.01001  
Title.02000

Adopted by the House Political Subdivisions  
Committee

February 28, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2078

Page 1, line 1, replace "section" with "sections 54-44.6-08 and"

Page 1, line 2, remove "records management; and to repeal sections 54-44.6-08, 54-46-10,  
and 54-46-13 of"

Page 1, line 3, remove "the North Dakota Century Code, relating to the authority to adopt rules  
for"

Page 1, after line 5, insert:

**"SECTION 1. AMENDMENT.** Section 54-44.6-08 of the North Dakota Century  
Code is amended and reenacted as follows:

**54-44.6-08. Rules.**

The manager may adopt any rules in accordance with chapter 28-32 necessary  
to effectuate the purposes of this chapter."

Page 1, remove lines 16 and 17

Renumber accordingly

Date: 2-28-19  
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2078

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.8023.01001

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. Koppelman Seconded By Rep. Longmuir

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:					
Vice Chairman Pyle:					
Rep. Ertelt:					
Rep. Fegley:					
Rep. Hatlestad:					
Rep. Johnson					
Rep K. Koppelman:					
Rep. Longmuir					
Rep. Magrum:					
Rep. Simons:					
Rep. Toman:					
Rep. Strinden:					
Rep. Adams:					
Rep. Guggisberg					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Voice vote carried

Date: 2-28-19  
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2078

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.8023.01001

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. Koppelman Seconded By Rep. Adams

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	/				
Vice Chairman Pyle:	/				
Rep. Ertelt:	/				
Rep. Fegley:	/				
Rep. Hatlestad:	/				
Rep. Johnson	/				
Rep K. Koppelman:	/				
Rep. Longmuir	/				
Rep. Magrum:	/				
Rep. Simons:	/				
Rep. Toman:	/				
Rep. Strinden:	/				
Rep. Adams:	/				
Rep. Guggisberg	/				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Pyle

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

**REPORT OF STANDING COMMITTEE**

**SB 2078: Political Subdivisions Committee (Rep. Dockter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2078 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 54-44.6-08 and"

Page 1, line 2, remove "records management; and to repeal sections 54-44.6-08, 54-46-10, and 54-46-13 of"

Page 1, line 3, remove "the North Dakota Century Code, relating to the authority to adopt rules for"

Page 1, after line 5, insert:

**"SECTION 1. AMENDMENT.** Section 54-44.6-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.6-08. Rules.**

The manager may adopt any rules in accordance with chapter 28-32 necessary to effectuate the purposes of this chapter."

Page 1, remove lines 16 and 17

Re-number accordingly

**2019 CONFERENCE COMMITTEE**

**SB 2078**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

SB2078  
4/9/2019  
Job # 34623

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Jo Wocken

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

Relating to records management; relating to the authority to adopt rules for records management and forms management.

### Minutes:

**Senator Kannianen** opened the conference committee on SB2078. Senators Kannianen(Chair) Diane Larson and Dotzenrod were present. Also in the conference committee was Representatives Hatlestad (Chair) Magrum and Guggisberg.

**Senator Kannianen:** This was a bill that, as I was mentioning to Rep. Hatlestad, we had this the first week of the session. It was essentially attempting to be clean up language due to the state records management program being moved from OMB to ITD. So maybe we will just start by saying that in our hearing, the emphasis was on the fact they said that Administrative Rules wasn't really a function of ITD and this administrator now being under ITD they wanted to clean up language in regards to the Administrative Rules and now, things happened differently in the House. I will allow it to be expressed of what the discussion there in your committee.

**Representative Hatlestad:** Basically we still think that the Administrative Rules apply. The testimony we had the respondent indicated that even though ITD doesn't use rules, they have the right to do so. Therefore, we thought that Chapter 28-32 needed to remain in case the situation occurred and the Administrative Rules would apply. So, that is basically where we are at, the Senate took out, 28-32 and we put it back in.

**Senator Kannianen:** It looks like it was put back in or moved from the records management to the forms management. Like the 28-32 language dealing with Administrative practices looks like it was moved from the 54:46:12, it was still struck there in relation to the records management, but then Section 1 was added on the House version ahead of that language of 28-32 into the forms management program with the ITD.

**Representative Hatlestad:** Right, we put back in 54:44.6-8 which then contains the rules and then because virtually every other agency in state government has to respond to

Administrative Rules, in chapter 28:32 we thought that ITD even though they say they don't set rules, they have the authority to do so. We felt that it needed to be put back in.

**Senator Kannianen:** I was reading the minutes from the House committee, and was there perhaps a concern that if this wasn't in here, if the 28:32 wasn't in there, that perhaps there could be rules administered that may be didn't go through the Administrative Rule proceedings?

**Representative Hatlestad:** Yes, that is correct.

**Senator Dotzenrod:** When we refer to a manager here in the bill, like on line 7 of the 2000 version. A manager is that forms management people; I don't know what the proper title is? Records management, that is who manager is, right? That's the forms that's the people in the bureaucracy here that take care of forms and creating forms. It is part of ITD? It is currently today that manager is part of ITD? They use the word 'may' here so do want, it looks to me like by adopting what the House did, they used the word 'may' on line 7. So, it appears to me that the manager is not under some new or necessary obligation by adopting this, or are they?

**Representative Guggisberg:** So it looks to me like they may adopt any rules, was already there. This just says that they have to do it in accordance with that chapter which would be Administrative Rules, so they would have to go through the process if they adopt rules.

**Senator Kannianen:** Senator Dotzenrod, in 54:44.6 the forms management title chapter it is the state wide forms management programs within ITD.

**Senator Dotzenrod:** Looking at the bill that was introduced, said it was the administrator 'shall' and I assume administrator and manager are the same person. Is that correct? If you look at the old 1000 version, says 'administrator' on line 10, and in the 2000 version, says 'manager' on line 7. Also the 2000 version, there is a reference to the administrator again, on line 13. So can we use that, is that the appropriate labeling here that we can use manager and administrator, or are they two different people?

**Senator Kannianen:** 54:46 is the State Records Administrator, and it talks about the duties of the administrator. Then 54:44.6 discusses the state forms manager which is the Chief Information Officer, of the state. So it describes the duties of the manager. It looks like the Chief Information Officer could be the same.

**Representative Guggisberg:** I think manager refers to the state agency, and the administrator refers to the counties, cities, or park districts.

**Becky Lingle: State Records Management Administrator.** Basically the forms manager and the records administrator are the same person. They are designated by the Chief Information Officer, and that is me at this time. I just want to clarify a couple of things. The records management chapter 54:46 refers to it as administrator and the forms management chapter 54:44.6 refers to it as manager. So they are the same person. The forms chapter 54:44.6 says the manager "may" in the records chapter 54:46 says "shall". So they are different but they are basically one says may, the other says shall.

**Senator Dotzenrod:** By putting the language back in, that refers to Administrative Rules, does that create any obstacles or problems in accomplishing what needs to get done?

**Ms. Becky Lingle:** No, it doesn't.

**Senator Dotzenrod:** It doesn't change anything.

**Senator Dotzenrod:** When the bill was introduced we repealed 3 sections here. In the 2000 version that repeal is gone. The fact that we are leaving those sections in place and not repealing them does that have any consequences that will be negative, or can we go ahead and leave those in place?

**Senator Kannianen:** I believe those repealers' we are referencing administrative rules. I think it was clean up language to remove that, so then they struck those repealers' in order to leave that in.

**Senator Dotzenrod:** I think that answers my question. I think that when we add in that line the underlined language on line 7, where we refer to 28:32 then we have to have these other sections back in there. Because we only took them out because they referred to that chapter. I think we are good. I think the bill looks pretty good.

**Senator Diane Larson:** I move that the Senate accede to the House amendments.

**Senator Dotzenrod:** 2<sup>nd</sup> that motion.

**Senator Kannianen- Yea**  
**Senator Diane Larson- Yea**  
**Senator Dotzenrod- Yea**

**Representative Hatlestad- Yea**  
**Representative Magrum- Yea**  
**Representative Guggisberg- Yea**

**Senator Kannianen: Motion passes 6-0-0**

**Senate Carrier: Senator Dotzenrod**

**House Carrier: Representative Hatlestad**

**2019 SENATE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB2078 as (re) engrossed

**Senate Political Subdivisions Committee**

- Action Taken**  **SENATE accede to House Amendments**  
 **SENATE accede to House Amendments and further amend**  
 **HOUSE recede from House amendments**  
 **HOUSE recede from House amendments and amend as follows**
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Diane Larson      Seconded by: Sen. Dotzenrod

Senators	4/9		Yes	No	Representatives	4/9		Yes	No
Senator Kannianen	X		X		Representative Hatlestad	X		X	
Senator Diane Larson	X		X		Representative Magrum	X		X	
Senator Dotzenrod	X		X		Representative Guggisberg	X		X	
Total Senate Vote			3		Total Rep. Vote			3	

Vote Count      Yes: 6      No: 0      Absent: 0

Senate Carrier Senator Dotzenrod      House Carrier Rep. Hatlestad

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2078:** Your conference committee (Sens. Kannianen, D. Larson, Dotzenrod and Reps. Hatlestad, Magrum, Guggisberg) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ page 894 and place SB 2078 on the Seventh order.

SB 2078 was placed on the Seventh order of business on the calendar.

**2019 TESTIMONY**

**SB 2078**

SB 2078

1.4.2019

Written Testimony #1

**SB 2078 TESTIMONY**  
**SENATE POLITICAL SUBDIVISIONS COMMITTEE**  
**BY: GREG HOFFMAN, DIRECTOR, ADMINISTRATIVE SERVICES**  
**INFORMATION TECHNOLOGY DEPARTMENT (ITD)**  
**JANUARY 4, 2019**

Mr. Chairman and members of the committee, my name is Greg Hoffman. I am the Director of Administrative Services with the Information Technology Department (ITD). I am here to indicate ITD is in support of Senate Bill 2078.

This bill clarifies the language in NDCC 54-46 and 54-44.6 by removing the reference for ITD to issue rules and regulations related to records management practices for state agencies and political subdivisions. The state records management program used to be housed in the Office of Management and Budget but has since moved to ITD. ITD does not have authority to issue administrative rules.

Rather than adopting administrative rules, this bill modifies the language to establish a program of standards, procedures, and techniques for the effective management of records which may be adopted by county, city, and park district offices, departments and agencies.

This concludes my remarks. I would be happy to answer any questions.

Greg Hoffman  
Director, Administrative Services  
Information Technology Department  
(701) 328-4006  
gahoffman@nd.gov

**SB 2078 TESTIMONY**  
**HOUSE POLITICAL SUBDIVISIONS COMMITTEE**  
**BY: BECKY LINGLE, STATE RECORDS MANAGEMENT**  
**ADMINISTRATOR**  
**INFORMATION TECHNOLOGY DEPARTMENT (ITD)**  
**FEBRUARY 28, 2019**

Mr. Chairman and members of the committee, my name is Becky Lingle. I am the State Records Management Administrator with the Information Technology Department (ITD). I am here to indicate ITD is in support of Senate Bill 2078.

This bill clarifies the language in NDCC 54-46 and 54-44.6 by removing the reference for ITD to issue rules related to records management practices for state agencies and political subdivisions.

Rather than adopting administrative rules, this bill modifies the language to establish a program of standards, procedures, and techniques for the effective management of records which may be adopted by county, city, and park district offices.

This concludes my testimony. I would be happy to answer any questions.

Becky Lingle  
State Records Management Administrator  
Information Technology Department  
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