

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2202

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2202

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2202

**Senate Government and Veterans Affairs**

☐ Conference Committee

Hearing Date January 20, 2005

Tape Number	Side A	Side B	Meter #
1		x	0-3037
Committee Clerk Signature <i>Stane Davis</i>			

**Chairman Krebsbach** opens hearing on 2202

Relating to exempting from the open records law records concerning individual recipients of economic assistance.

**Rich Wardner** - This bill brought in by Community Action, under the recommendation of the Attorney General Office. There private confidential records that are open at this time that have no business being open. This awards those people the privacy they deserve just like we do under HIPPA rules.

**Senator Nelson**- Ask why you want it exempt instead of confidential.

**Senator Wardner** - Referred question to the person from the Attorney General's Office.

(meter #398)

**Ervin Bren** - Executive Director, Community Action Partnership - see written testimony in support of 2202.

**Senator Brown** - Says he is surprised there is even requests for this information. Asks if he has had to compromise any data.

(meter #770)

**Bren** - Said they have had one such request. Information they receive now is more complicated and in depth.

**Edward Erickson - Attorney General's Office** - neutral - Here to answer questions. Why exempt over confidential. We want to keep some degree of desecration for the Community Action Agency. Different situations arise, some information needs to be kept confidential and some may need to be shared with maybe a family member. We want some of this information to be available go the auditor. Exempt means that the agency would make the decision whether there is a legitimate need for that information. He says this deals with economic assistance and benefits programs. These records in the hands of Human Services are already confidential under their law.

This relates to only individual applicants not the program as a whole. It does not apply where the Legislature has put in a more specific statute. They are not messing with any existing specific statutes.

**Senator Krebsbach** - Asked if any other area that this could go beyond what is intended.

**Erickson** - Said he doesn't believe so. People may choose not to take program benefits if they know all there neighbors could find out.

**Senator Krebsbach** - Asked for a overview of the meaning of exempt and confidential.

**Erickson** - Explained. Everything is presumed to be open unless the legislature or the federal government specifically change that. Confidential record is a closed record. Exempt record is a record where the government is not compelled to hand that to someone under the open records law but it is not a crime to provide that if they need to do so.

**Senator Nelson** - Wanted to know a little more about community action because there are some seniors that do not want to apply for Medicaid because they do not want to give out information to anyone. How do you handle that.

**Bren** - Told of reasons why people come in to their office. So no one knows why someone is coming into the office. He states there is quite a stigma attached to receiving assistance and they do not want all their neighbors knowing.

**Senator Nelson** - Said there is pride or stubbornness why people do not come in for assistance.

**Bren** - Stated many reasons for needing assistance and they want to preserve their dignity and improve their quality of life.

**Senator Nelson** - Asked if they work with Medicaid people.

**Bren** - They have many Medicaid clients.

**Senator Krebsbach** - Asked what is the average claim for payment in your division and is it temporary.

**Bren** - Said the services they provide is of a temporary nature. They are there to help meet their crisis. We try get them independent of the system or at least a level up. Our clients are one that are most vulnerable.

**Senator Syverson** - Do you have any rough estimation of those that could participate but don't because of pride....

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number **SB 2202**

Hearing Date January 20, 2005

**Bren** - Said his agency reaches only about 3%. Can not give precise numbers. If everyone would come in the door we would not have the funding to assist them.

(meter #2580)

**Jim Lewis** - Here to clarify economic assistance. Its not economic development. Believes what has been presented should be looked at. He just wanted to make sure this wasn't to do with economic development.

**Senator Lee** - States economic assistance has a definite meaning and would be very hard to change. She would have serious reservations on changing it.

Closed the hearing on 2202

(meter #2940)

Discussion on the bill.

**Senator Brown** moved for a do pass

Second - **Senator Lee**

**Senator Brown** will carry

**End (meter #3037)**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2202**

**Senate Government and Veterans Affairs**

☐ Conference Committee

Hearing Date January 27, 2005

Tape Number	Side A	Side B	Meter #
1	x		351-1452
Committee Clerk Signature <i>Deane Davis</i>			

**Chairman Krebsbach**

**Relating to exempting from the open records law records concerning individual recipients of economic assistance**

Motion to reconsider bill 2202 - Senator Brown

Seconded by Senator Syverson

All in favor, 5

**Mary Kay Kelsch** - Attorney General's office. Prepared some amendments, added language that information will be exempt will only apply to community action agencies. That will make it clear that we are not using economic development money.

**Senator Brown** - Asked if there are any other agencies that handle applications of this nature.

**Kelsch** - Dept. of Human Services is the primary agency and they have their own statutes that protect that information. Dept. of Health has some programs they also have their own statutes.

**Senator Brown** - Asked as long as an agency is working for the Dept of Human Services are their customers or clients protected.

**Kelsch** - Answered yes, anything connected to the state is protected.

**Senator Lee** - Stated any entity that contracts with Human Services is bound by the regulation that bind Human Services.

(meter #860)

**Senator Wardner** - Sponsor of the bill gave his comments on the amendment. He does not have a problem with the bill. This makes it very clear that its Community Action.

**Senator Krebsbach** - Asked if there is any similar agency is need of the this legislation.

**Senator Wardner** - Replied no one has specifically said that there is another agency. This lets everyone know we're dealing with economic assistance not economic development.

**Senator Brown** - Said he will stress that point. Economic assistance is a better word than welfare.

**Senator Wardner** - Mentioned that this closes the personal records of these people. Same as we expect from everyone else.

**Senator Nelson** - Asked Mary Kay Kelsch what are some of the other agencies.

**Kelsch** - Division of Community Services is the overall agency that brings the money in. The second tier is Community Action Agency which covers community action programs. As long as you are under these two divisions you will be covered.



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Senate Government and Veterans Affairs Committee

Bill/Resolution Number **SB 2202**

Hearing Date January 27 2005

**Senator Brown** moved for adoption of the amendment.

**Senator Nelson** - second

Do pass adoption of the amendment to 2202.

Motion for do pass on the bill 2202 from **Senator Brown**, seconded by **Senator Lee**.

**Senator Brown** will carry.

**End (meter #1452)**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2202**

**Senate Government and Veterans Affairs**

Business and Conference Committee

Hearing Date March 10, 2005

Tape Number	Side A	Side B	Meter #
1		x	5637-5877
Committee Clerk Signature <i>Diane Davis</i>			

House amended the bill with an emergency clause.

**Motion on to concur with SB2202 House amendment.**

Date: \_\_\_\_\_  
Roll Call Vote #: *t*

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

Senate **Government and Veterans Affairs** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 2202

Action Taken	Pass
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Motion Made By Senator Beeson Seconded By Senator Lee

[illegible]

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Brown

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

**REPORT OF STANDING COMMITTEE (410)**  
January 20, 2005 12:38 p.m.

**Module No: SR-13-0772**  
**Carrier: Brown**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2202: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)**  
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2202  
was placed on the Eleventh order on the calendar.

Date: 1/27/05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2202**

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

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

Action Taken 2202 do pass amendment

Motion Made By Senator Brown Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent 0

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

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

Date: 1/27/05  
Roll Call Vote #: 2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2202**

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass on amended bill

Motion Made By Senator Brown Seconded By Senator Lee

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Brown

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

**REPORT OF STANDING COMMITTEE**

**SB 2202: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2202 was placed  
on the Sixth order on the calendar.

Page 1, line 3, after "assistance" insert "administered under the division of community services  
or a community action agency"

Page 1, line 9, after "support" insert "administered under the division of community services or  
a community action agency"

Page 1, line 11, remove "This"

Page 1, remove lines 12 and 13

Renumber accordingly

2005 HOUSE HUMAN SERVICES

SB 2202



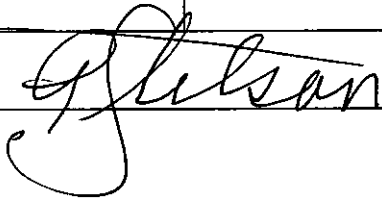
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2202

House Human Services Committee

☐ Conference Committee

Hearing Date 3/1/05

Tape Number	Side A	Side B	Meter #
1		x	611--1808
Committee Clerk Signature 			

Minutes:

**Chairman Price:** Opens the hearing on SB 2202.

**Senator Wardner, Dickinson, District 37:** It is good to be here. SB 2202 I put in for community actions across the state, what it has to do with is open records law pertaining to clients. The bill was here because of the Attorney General said we need to address this issue - that there is too much of the individuals personal records that are open to open records. I want you to know that it was amended over in the Senate to make it specific to community action. One of the words that was debated is "economic assistance". We had an individual that came in and thought this was for economic development. Yes Representative Devlin, I believe it was a friend of yours. But I just want you to know that it is specific. You don't have to worry, economic assistance means welfare, the Attorney General said it is welfare, you talk to the people in Human Services and it means welfare; it does not mean economic development. It is a bill

that just simply tightens it up and protects the records of clients of community actions. With that I will stop and answer any questions.

**Rep. Damschen: (806)** I just was wondering if the discussion came up on whether or not we can exempt something from the Constitution of North Dakota without amending the Constitution? In reference to lines 9 and 10.

**Senator Wardner:** The Attorney General wrote it up and said we could, so I am going to say yes we can in this case.

**Mike Muller, Attorney General's Office representative:** That part of the Constitution provides that except as otherwise provided by law, all records and all meetings in the state of North Dakota are open. The constitutional provision explicitly allows the Legislature to create exemptions or make information confidential in particular cases.

**Senator Wardner:** We have people here from community action that will go into more depth and will answer your questions.

**Erv Bren, Director of Community Action Partnership in Dickinson: (1056)** (See Attached Testimony)

**Rep. Porter: (1478)** On page 2 of your testimony in the Second Paragraph, you said a statement that caught my attention "unless we decide to share it with certain individuals" - I guess I am looking at the type of information that we are keeping confidential and it includes personal, financial, medical, eligibility assessments, and is there a form or a statement that has to come from the client prior to you sharing their personal information with certain individuals or is that kind of a miss statement of yours?

**Erv Bren:** Whenever we do share information, the client has to sign a release of information specifying the information that we do share. If they want certain information restricted from their file, we do not share that. The majority of the information that we do have in there when we work with other providers in our community needs to be shared so that we can provide a more holistic type of assistance to the client.

**Rep. Porter:** So when you say share it with certain individual, you really mean you are sharing it with other organizations that are providing economic assistance?

**Erv Bren:** That is correct.

**Rep. Porter:** You made a statement in repines to my question in that you said that their information is available to be shared unless they tell you otherwise or their information is confidential to that program unless they tell you otherwise?

**Erv Bren:** Their information, all of our agencies have confidentiality statements that we maintain their confidential information as is; however if someone would come into our office and request a file, according to the open records law right now, we would have to release certain parts of that. Without their release, we would protect at this point, Social Security numbers, and medical conditions etc. Their name, their income, their sources of income, that we would have to release without their signature. In respect for that client, we tell them that before we do that we ask for their release. However, if there would be a demand or request, we have to release. We do receive public funds.

**Rep. Weisz: (1739)** You made the point in your testimony, by not releasing information about the client, but with this bill basically, even the client them self it would be confidential, so I understand you would not be able to release their name.

Page 4  
House Human Services Committee  
Bill/Resolution Number SB 2202  
Hearing Date 3/1/05

**Erv Bren:** That is correct.

**Chairman Price:** Anyone else testifying in favor? No response. Any opposition? No response.

Close hearing on SB 2202.

**Chairman Price** opened discussion on SB 2202.

Is there any discussion on this bill?

**Rep. Devlin:** I understand that the Attorney General wants this change and even if I have some reservations, I will move the amendment with the emergency clause.

**Rep. Porter:** Second

**Rep. Weisz:** You know my stand on this, it just doesn't set right and I have a problem with some of the language.

**Chairman Price:** All in favor of amendment with the emergency clause?

Voice Vote: one nay.

**Chairman Price:** Anymore discussion? If not, what are your wishes?

**Rep. Porter:** I move a Do Pass as Amended and the action of the Emergency clause.

**Rep. Potter:** Second

**Vote:** 8-1-3

**Carrier:** Rep. Uglem

Date: 3/1/05

Roll Call Vote #: 2-81-3

1: Amend 8-1

2005 HOUSE STANDING COMMITTEE ROLL CALL  
BILL/RESOLUTION NO. SB 2202

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass As Amend/comp clause

Motion Made By

Rep. Porter

Seconded By

Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. Price	✓		Rep.L. Kaldor	AB	
V Chrm.G. Kreidt	✓		Rep.L. Potter	✓	
Rep. V. Pietsch	✓		Rep.S. Sandvig	AB	
Rep.J.O. Nelson	✓				
Rep.W.R. Devlin	✓				
Rep.T. Porter	✓				
Rep.G. Uglem	✓				
Rep C. Damschen	AB				
Rep.R. Weisz		✓			

Total Yes

8

No

1

Absent

3

Floor Assignment

Rep. Uglem

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

REPORT OF STANDING COMMITTEE (410)  
March 3, 2005 8:28 a.m.

Module No: HR-39-4027  
Carrier: Uglem  
Insert LC: 58244.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

**SB 2202, as engrossed: Human Services Committee (Rep. Price, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (8 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). Engrossed SB 2202 was  
placed on the Sixth order on the calendar.

Page 1, line 4, after "agency" insert "; and to declare an emergency"

Page 1, after line 13, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency  
measure."

Renumber accordingly

2005 TESTIMONY

SB 2202

Bill  
2202

TESTIMONY BEFORE  
THE SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

IN SUPPORT OF SB 2202

Thursday, Jan. 20, 2005

Ervin Bren, Director  
Community Action Partnership  
202 East Villard  
Dickinson, ND 58601  
701-227-0131

Chairman Krebsbach and Committee Members

I appear here today in support of Senate Bill 2202 which addresses closure of certain information within client files. My name is Erv Bren and I am director of Community Action Partnership in Dickinson.

The network of Community Action Partnership programs across North Dakota are dedicated to working for the stabilization and economic advancement of the working poor, the disabled, disadvantaged youth, and the elderly.

To achieve those goals our agencies provide a variety of services designed to meet the needs of clients in our local communities – food, emergency services, assistance with payment of delinquent electric costs, purchase of medications, Head Start programs, case management to strive for self-sufficiency, youth diversion, weatherization of homes, development of low-income housing and much more.



Within that work our agencies strive to protect our clients' dignity by a careful system of confidentiality. However, that confidentiality is compromised by having to release "personal" information to individuals requesting that information.

Under the provisions of SB 2202 personal client information would become exempt from the state open records law. In general we are talking about information that all of us want to remain private unless we decide to share it with certain individuals – social security numbers, general and specific health information, income and its sources, that they receive food stamps, that they are involved in addiction counseling, etc.

The families that access our services already face crisis on a regular basis, they don't need to also know that in accessing our services others in the community can come in and see their files. It is simply another roadblock to their coming to CAP; thus allowing a crisis to spin out of control. It is also an opportunity for abuse. At this time a landlord could be driving down the street and see a tenant enter our offices. There is nothing that would prevent the landlord to come in and request the file information on that individual just to see if the services sought might impact the tenancy. Anyone having a grudge, or simply a sense of unchecked curiosity, could seek that access.

The CAPs already have a strong system of working closely with other service providers in our communities – state, county and private – through a system of

referrals and release of information statements signed by the clients. This means personal client information is shared with those who need the information and with the involvement of the client. Those release of information forms are also utilized when the client wants the involvement of a family member such as a senior citizen who wants their children part of the process.

CAP is always willing to share certain information with the public. We can and do provide information about total clients, the number of clients in certain income levels, the number in certain age groups, the different family sizes, the number of people and general client profile of those in our homeless shelter. We can provide very detailed information about our services and grouped client information that does not drag the individual under a spot light.

The intent of SB 2202 is to protect individuals from intrusion into their personal lives and into their personal information. Please consider granting them the ability to shelter their dignity.

C:\csbg\Legislation.SB2202

7

TESTIMONY BEFORE  
THE HOUSE OF REPRESENTATIVES HUMANS SERVICES COMMITTEE

IN SUPPORT OF SB 2202

Tuesday, March 1, 2005

Ervin Bren, Director  
Community Action Partnership  
202 East Villard  
Dickinson, ND 58601  
701-227-0131

Chairman Price and Committee Members

I appear here today in support of Senate Bill 2202 which addresses closure of certain information within client files. My name is Erv Bren and I am director of Community Action Partnership in Dickinson.

The network of Community Action Partnership programs across North Dakota are dedicated to working for the stabilization and economic advancement of the working poor, the disabled, disadvantaged youth, and the elderly.

To achieve those goals our agencies provide a variety of services designed to meet the needs of clients in our local communities – food, emergency services, assistance with payment of delinquent electric costs, purchase of medications, Head Start programs, case management to strive for self-sufficiency, youth diversion, weatherization of homes, development of low-income housing and much more.

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The families that access our services already face crisis on a regular basis, they don't need to also know that in accessing our services others in the community can come in and see their files. It is simply another roadblock to their coming to CAP; thus allowing a crisis to spin out of control. It is also an opportunity for abuse. At this time a landlord could be driving down the street and see a tenant enter our offices. There is nothing that would prevent the landlord to come in and request the file information on that individual just to see if the services sought might impact the tenancy. Anyone having a grudge, or simply a sense of unchecked curiosity, could seek that access.

The CAPs already have a strong system of working closely with other service providers in our communities – state, county and private (including human

service centers, social services, churches, etc.) – through a system of referrals and release of information statements signed by the clients. This means personal client information is shared with those who need the information and with the involvement of the client. Those release of information forms are also utilized when the client wants the involvement of a family member such as a senior citizen who wants their children part of the process. The irony here is that the information that is protected within the social service and human service system are part of open records in CAP's system.

CAP is always willing to share certain information with the public. We can and do provide information about total clients, the number of clients in certain income levels, the number in certain age groups, the different family sizes, the number of people and general client profile of those in our homeless shelter. We can provide very detailed information about our services and grouped client information that does not drag the individual under a spot light.

The intent of SB 2202 is to protect individuals from intrusion into their personal lives and into their personal information. Please consider granting them the ability to shelter their dignity.