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DESCRIPTION

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10/15/03
Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2055

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10/15/03

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2055

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date 01/17/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		5088-end
Tape 1		x	0-4760
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens SB 2055. All senators present.

Senator Krebsbach : We will begin testimony on SB 2055.

Senator Judy Lee testifying in favor of this bill. (Testimony attached) Senator Lee also brought about an amendment in case the committee would like to take a look at going with an amendment also.(Attached) She is neutral on amendment.

Senator Krebsbach : further testimony...

Jack McDonald, ND Newspaper Association, ND Broadcasters Association is testifying in favor of bill. (testimony attached)

Nancy Sand, ND Education Association testifying in favor of bill. Testifies that they are in support of bill. Many school boards already tape their meetings. It is used to define things that can be used for legal actions. I would like to have the public realize that there can be appropriate charges for copies and information.

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2055

Hearing Date 01/17/03

Carol Two Eagles: she is in favor of SB 2055. : I have gone up on 3 hearings in the Economic Development situation and there was no recording except my own. We have unimaginable surprises in which legislators as for copies of the records of the meeting and never got them. They asked what was said and was given no information and at the last meeting the Deputy Director of Economic Development for the state of ND told me she didn't want to hear the grant from my corporation. (additional testimony attached)

Connie Sprynczynatck, ND League of Cities, in favor of bill with amendment. Without the amendment some local entities, some of which already record their meetings, that smaller entities we have a question on the archiving and duplication for these small entities and also we have a question for example if a small town has a police chief that lives outside the city limits what would be the provisions on that. If the committee does not choose to put on the amendment our position then would be in opposition.

There is further discussion on who would be expected to be part of the committee that would require it to be recorded, for example if there is a refugee that would be not a citizen but, has be working toward one and is part of the committee would it be required to record that public hearing or would it just be public officials.

There is also further discussion if there is a committee created in Bismarck we would not be able to appoint someone to this committee that lived outside the city limits, as it states in the bill. We would like the committee to take a look at this and discuss what the bill should say.

Also, they were trying to define what a political subdivision is and what public entities that is a political subdivision are.

Senator Krebsbach : further questions...testimony in favor...testimony in neutral

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2055

Hearing Date 01/17/03

Mary Kay Kelsch, Asst. Attorney General :(Neutral position for bill) :

Senator Fairfield : Define a public entity that is a political subdivision.

MK Kelsch: Political subdivision is included as a public entity.

Discussion back and forth about what they list as public entities and political subdivision.

Senator Krebsbach states that that will be the job with further discussion on this bill to decide what that is. Also defining statutorily created, means created by state law, which means any entity created by state law and that is appointed would have to be an elector. I don't believe it covers employees.

Senator Dever : Is the tape the official record if this bill passes?

Jack McDonald: You would be creating another unofficial record.

Senator Brown : What was your intent, what are you looking for?

Jack McDonald: We generally support greater access to public meetings and records, and from our viewpoint it would be easier to get information out to the public.

Senator Richard Brown : Isn't there a written document of every meeting today?

J. McDonald: Yes, there is , the problem is when the written document is written and prepared, sometimes it is several days or weeks for them to be available.

Senator Richard Brown : Does this put an undo burden on the smallest of political subdivisions?

J. McDonald: I think it would be a greater burden on the Braddock's of the world that it would be the tape retention not so much the actual recording. I would support the amended portion of the bill if that is what the committee would decide.

Further testimony

Page 4
Senate Government and Veterans Affairs Committee
Bill/Resolution Number SB 2055
Hearing Date 01/17/03

Opposition

Bev Nielson, ND School Board Association :We have concerns about this bill. we would like the amendment but we oppose the original bill. For the school board, this would not just include the monthly meetings of the school board. Even the monthly meeting go on four or five hours and that would be alone a great challenge to do, but this would not only talk about the monthly meeting of the school board. If you have 2 members who are on the personnel committee that meet with the personnel super. , they would all have to be recorded and kept for a year. This would be hours and hours and hours per month of recordings. The school board has to post notices now, or meetings with a purposed agenda, they have to publish that notice, they have to take minutes, they publish those minutes, and provide copies to any citizen that want copies. We feel we do our part. Now, it seems we are having to provide our meetings to the publics, they no longer have to come to them. If you were to amend this our objection would go away.

Frances M. Olson, McKenzie County Auditor (Oppose without amendment) (Testimony attached)

Ken Yantes, NDTOA, We opposes in the present form and agree with Frances M. Olson's testimony.

No further testimony.

Senator Krebsbach : We will have to discuss this further any other testimony can come to us in written form and we will discuss this matter at a future time.

Closed SB 2055

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2055

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date 01/30/03

Tape Number	Side A	Side B	Meter #
Tape 3	x		2710-4500
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman reopens SB 2055

Goes over bill and attached amendment

Further Discussion

the committee discusses that if they pass this bill it could eliminate students and governor appointed people from outside the state, The example is given that if for some reason the governor would want to appoint Steve Volmer the person second in command at Microsoft who is originally from North Dakota and still does quite a bit of business in North Dakota could he serve on this board? they also discussed organizations for example that are located in Fargo/Moorhead. If some of those people are Minnesota citizens would they be able to serve on the board.

Regarding the audio recording they all thought it was a good idea but would not be able to be done by some of the entities involved.

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2055

Hearing Date 01/30/03

Senator Nelson moves a Do Not Pass

Senator Wardner 2nd

6 yes, 0 No

Carrier: Senator Nelson

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10/15/03
Date

30188.0201
Title.

Prepared by the Legislative Council staff for
Senator J. Lee
January 16, 2003

PROPOSED AMENDMENTS TO SENATE BILL NO. 2055

Page 2, line 2, after the underscored period insert "This subsection does not apply to a public meeting held by a public entity that is a political subdivision."

Renumber accordingly

Page No. 1

30188.0201

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10/15/03
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REPORT OF STANDING COMMITTEE (410)
January 30, 2003 4:12 p.m.

Module No: SR-18-1410
Carrier: Nelson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2055: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends DO NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2055 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-18-1410

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2003 TESTIMONY

SB 2055

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(For Sen. J. Lee)

Scratch Pad for Bill: SB 2055

SB 2055

Government and Veterans Affairs Committee
January 17, 2003

SB 2055 would require two changes to current statute.

The first change is an addition that requires that a person who is appointed to serve on a North Dakota board of commission must be qualified elector. That means that he/she must be a resident of ND. There have been appointments made in which the people who have been appointed work in North Dakota, but live in another state. Although they may be qualified people, I think that we have North Dakota citizens who are qualified to serve on our boards.

The second addition would require that public boards and commissions make an audio recording of their meetings, except those closed for an executive session as permitted by our open meetings law.

The reason for this provision is that peoples' memories are not perfect, and recollections of discussions in meetings are never as accurate as recordings. I understand that there are entities who have some concerns about this requirement. But the intent of the board or committee is much easier to track with recorded meetings. Just this week in the Human Services committee, we have been dealing with legislation which originated in 1983. There is a section of law that is ambiguous now, even to attorneys who regulate the situation, but it was probably quite clear to everyone involved in the original draft. The same is true for discussions by board and commission members about issues they address during their meetings. I have relied on such meeting tapes in the past 2 years to more precisely recall what the discussion included and to learn more clearly what the intent was.

I have amendments which would limit this provision to state entities, if that is what you might prefer. But I do hope that you will assure that all state meetings of every sort will be recorded.

I respectfully request a favorable review of SB 2055.

<http://auth.intranetapps.nd.gov/lr/legislature/laws?request=LRLawsPrintScratchPad&memb..> 1/16/2003

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Friday, January 17, 2003

SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
SB 2055

SENATOR KREBSBACH AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We support SB 2055.

North Dakota's newspapers and broadcasters have small staffs, and trying to cover all the governmental meetings in their coverage areas is impossible. Having tapes of these meetings available will greatly increase the coverage given to these meetings, particularly in the state's smaller communities. Many governmental bodies now routinely tape their meetings already, so this legislation will not add additional duties.

We recognize that tape retention may be a problem, but perhaps this could be accomplished electronically through zip files, compact disks or some similar digital method.

We respectfully urge you to give this a DO PASS.

If you have any questions, I'd be glad to try and answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

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10/15/03
date

CAROL TWO EAGLE

Pager: 701-221-0285

Email: AWiseSpirit@NativeWeb.net

TO: Senate Government & Veterans Affairs Committee, Sen. Karen Krebsbach, Chair

RE: SB 2055

Madam Chair & Members of the Committee, this is my additional thoughts on SB 2055 which you said you wanted submitted on paper, after the hearing on this bill last Friday, January 17. Thank you for hearing me in a good way now.

I won't repeat my testimony, since you have it on paper, except to note that I took my pocket tape recorder to every one of my APUC grant hearings. My tape recorder turns out to have made the only audio record of any part of the proceedings of APUC hearings. Comparison of the official report with my tape recordings showed no relationship between the official reports & the treatment I got, in which Linda Butts, the Deputy Director of Economic Development & Finance for North Dakota said she didn't ever want to make a grant to Indian Maid Foods, Inc. "because your mission statement says you mean to provide jobs for Indians". I related my experiences with APUC to a couple of women who are the heads of their areas' Economic Development teams & was stunned to learn that they got the same treatment from APUC as I had.

Former Representative Roxanne Jensen wrote a letter to Governor Hoeven about my last experience with APUC & said the response she got "was so insipid, I was so disappointed I couldn't respond to it". That's when I requested this change in the law.

Given the size of APUC's budget, it makes economic development grants, the fact that APUC is a governmental agency & therefore automatically representative of North Dakota's official attitude to minorities & women, & subject to the Open Meetings law, the great differences between published reports & my tapes, the blatantly illegal experiences I, other women, other Native People & my Directors have had before APUC make it imperative that there be an accurate record of what was said in meetings in order to put a stop to cavalier treatment of portions of North Dakota's citizenry. This procedure is standard in all federal governmental meetings, as well, & adoption of this will bring North Dakota procedures more in line with the federal.

I don't agree with the small entities' objections about storage requirements for tapes, since "48" standard-size tapes only fill a box a tad larger than a shoebox & recording equipment need not be expensive or large. Having noted that, I would also state that my original intent was to require audio recording of all state agency meetings, not every governmental entity's. I don't see that it would hurt to do it - I've served on various local Boards, including as the Secretary, & am currently the CEO of 3 micro-corporations (a 501c3, a for-profit co-operative, and a for-profit food-production corporation), & I have often been the person who keeps the audio recordings of our meetings. It just isn't that big a problem to store those boxes of tapes. I see it as part of the territory that goes with being any kind of "officer".

Because the statute of limitations for filing complaints in law is 2 years, I would ask the Committee to amend the Bill to reflect this & require that whatever governmental bodies ultimately come under this change in the law keep their audio recording for 2 years, not 1 year. I also think the part about removing the requirement for recording "executive Sessions" be removed, since APUC has shown they are duplicitous & my belief is that they would declare all or most of their activities exempt.

If anyone wants to discuss this with me further, I am always available to work with the Committee. Thank you for your time and attention to this matter, & for hearing me in a good way now. Many blessings.

TESTIMONY TO THE
SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
Prepared and presented by Frances M. Olson, McKenzie County Auditor

January 17, 2003, hearing concerning SB 2055

Chairman Krebsbach and members of the committee, thank you for this opportunity to make a brief presentation on SB 2055, in particular the amendment to section 44-04-21 which would require audio recording of all public meetings. I will be speaking in opposition to this amendment.

From a practical standpoint, the vast majority of our public entities already comply with the requirements of the open records, open meetings provisions of the Century Code.

North Dakota Constitution article XI, §5 and North Dakota Century Code 44-04-19 provide that the meetings of public entities are open.

§44-04-19.2 provides procedure, including audio recording, for executive sessions within open meetings.

§44-04-19 & 20 provide the public's access to meetings and the notices to be given.

§44-04-18 and following provide for the public's access to public records, including those in electronic form.

Chapter 14-02.4 provides that there can be no discrimination in access to or provision of services.

This section of law which is proposed to be amended in this legislation already provides for written records of each public meeting.

If this amendment is adopted, all counties will be mandated to have recording equipment which they may or may not have at the present time. And even if there is now equipment in the courthouse, will it stand up to the use that it will receive? Is it also capable of making copies of audio tapes when requested? Or can it be shared as needed? In McKenzie County there is recording equipment in the court room. Court is in session on most days that the Commission meets.

Storage and maintenance of the tapes will also pose interesting considerations. In our county, the meetings generally last seven hours. This would require as few as four or as many as seven tapes. At a minimum, after a year there will be 48 tapes to keep safe, properly identified and available. Again, there will be more than a minimum of expense involved as the bargain tapes at the local discount store will likely not be of a quality that will maintain the integrity of the recorded information.

Again, the present laws make ample provision for public access to our meetings, as well as the various appointed committees and boards. It would be better to work on educating both the public and government officials and committees on the requirements of the Open Records, Open Meetings sections of the law and hold them accountable. North Dakota Century Code 44-04-21.1 and 21.2 provides penalties for those who would ignore the law in this matter.

Those who are currently following the law will most likely continue to do so. Those who are currently not following the law because they are not fully aware of its provisions would benefit from education. Those who currently have knowledge of the law and are looking for ways around it will find ways, or at least try. Those are the entities that should bear the burden of not following the law.

In addition, I find this to be a mandate coming down to counties and others and I see no funding attached. For some counties, both the expense of complying and the space requirements will be a problem.

Thank you for this opportunity to speak to you. I ask that you vote for and support a "Do Not Pass" recommendation on this bill.