

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2169

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2169
January 20, 2011
13126

Conference Committee

Committee Clerk Signature

Kate Oliver

Explanation or reason for introduction of bill/resolution:

Relating to audio recording of floor sessions of the legislative assembly.

Minutes:

Testimony Attached

Chairman Dever opened the hearings on SB 2169. Jay Buringrud gave the committee a little information on statutory intent vs. rational intent.

Senator Cook: In some states legislative intent is a large part of their code, isn't that correct

Jay Buringrud: If you check the cases of other states where the statement of purpose better match your intent.

Senator Cook: What is the definition of ambiguous?

Jay Buringrud: Ambiguous would be if you can look at something and the rational argument can be made of at least 2 positions it is ambiguous.

Senator Cook: Administrative rules don't carry the same impact in the court, do they?

Jay Buringrud: Yes they do. They have the force and effect of law plus the court will look at agency interpretation of statute.

Senator Murphy: This issue arose when I realized that the committee hearings are recorded and the floor sessions are not. As a historian I found that curious. It seemed to me to be good government. Essentially we are human beings and we can make mistakes on the floor and we can also shine on the floor. At very little cost it will be archived, that is my intent and only goal.

Senator Berry: Did they give any reason as to why we keep an archive of committee hearings and not the floor work?

Senator Murphy: It has just recently been that we have had streaming video going out on the internet and recording equipment has been in the House and Senate. This would be the opportune time to do this. IT told the Legislative Council that it would be fairly easy to do.

Chairman Dever: My only concern is if we record floor sessions to establish legislative intent. I guess that is my only concern that it may be used wrongly.

Senator Murphy: It doesn't hold water with me. How can something that is being made clear be muddling?

Merle Pavaud: See attached testimony #1.

Senator Cook: What does that do for the recordings and trying to figure out where the law is obtained?

Merle Pavaud: I think that it gives everyone an opportunity to speak on it.

Anne Jenks: State archivist for the state Historical Society. My concern with this is the cost, the software and hardware that will be used and after talking the Jason Steckler in Legislative Council I am comfortable for the plan they have set up in the event of this legislation passing.

Chairman Dever: I see that there is a fiscal note that is \$4,000 this biennium and \$5,000 next biennium.

Anne Jenks: Yes, as you know the hearings take up more time than the committee hearings.

Closed public hearing, a motion for a do pass was made by Senator Nelson with a 2nd by Senator Marcellais. There was no further discussion on the matter. Roll was taken, the measure passed 7-0 with Senator Berry carrying the bill to the floor

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2169
January 20, 2011
13127

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to audio recording of floor sessions of the legislative assembly.

Minutes:

Closed public hearing, a motion for a do pass was made by Senator Nelson with a 2nd by Senator Marcellais. There was no further discussion on the matter. Roll was taken, the measure passed 7-0 with Senator Berry carrying the bill to the floor.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2169
February 10, 2011
14330

Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to audio recording of floor sessions of the legislative assembly.

Minutes:

After being heard on the Senate floor SB 2169 was referred back to the Government and Veteran's Affairs Committee for reconsideration. Chairman Dever opened the floor to discussion on SB 2169 and passed out amendments.

Chairman Dever: So basically we are changing the language on page 1 line 7.

Vice Chairman Sorvaag made a motion to accept the amendments with a second by Senator Cook.

Senator Nelson: I have a problem with this. I realize what you are trying to do but you certainly have no consistency here. One set of leaders could decide to suspend the rules on any given day where as if it is in the Code you are going to do it and that is what the original bill said.

Senator Cook: I would hate to be the legislative leader who went public with not recording a floor session.

Senator Berry: I think that putting it in the rules makes sense. It leaves these rules up to us and the way we conduct business.

Senator Nelson: If it's going in the rules, Mr. Chairman do we even need to have a bill because we can set our own rules. Just run it through legislative management.

Chairman Dever: Would you have a follow up motion if we killed the amendments?

Senator Nelson: It still wouldn't give legislative intent if we want the rule to happen. My question is do we want to muddy up Code with something that I am not even sure where it would go.

Senator Cook: We took it to the floor; it got passed and then got re referred to us. I think that a rule is the best way to do it.

There was no further discussion on the amendment, roll was taken and the amendments were adopted by a 7-0 vote.

A motion for a do pass as amended was made by Senator Cook with a second by Vice Chairman Sorvaag, roll was taken and the motion passed 4-3 with Vice Chairman Sorvaag carrying the bill to the floor.

FISCAL NOTE

Requested by Legislative Council
03/21/2011

Amendment to: Engrossed
 SB 2169

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$4,000		\$5,100	
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed Senate Bill No. 2169 with House amendments provides that the Senate and the House of Representatives may adopt rules regarding the recording of floor sessions. The Legislative Council may archive the recordings. The recordings are public records that are open to the public.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill provides for the recording and archiving of all floor sessions of the Legislative Assembly.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

If both chambers would adopt rules to provide for the recording and archiving of floor session, the fiscal impact on expenditures is estimated to be \$4,000 for the 2011-13 biennium and \$5,100 for the 2013-15 biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No additional appropriation of funds is necessary relating to this bill.

Name:	Allen H. Knudson	Agency:	Legislative Council
Phone Number:	701.328.2916	Date Prepared:	03/21/2011

FISCAL NOTE

Requested by Legislative Council
01/14/2011

Bill/Resolution No.: SB 2169

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$4,000		\$5,100	
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill provides that the Legislative Council is to record the audio of all floor sessions of the House of Representatives and the Senate. The Legislative Council is to also archive all recordings and make the recordings available to the public.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill provides for the recording and archiving of all floor sessions of the Legislative Assembly.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The fiscal impact on expenditures is esimated to be \$4,000 for the 2011-13 biennium and \$5,100 for the 2013-15 biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No additional appropriation of funds is necessary relating to this bill.

Name:	Allen H. Knudson	Agency:	Legislative Council
Phone Number:	328-2916	Date Prepared:	01/17/2011

2169

Date: 1-20-11
Roll Call Vote #: 4

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Nelson Seconded By Sen Marcellais

Senator	Yes	No	Senator	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 4 No 0

Absent _____

Floor Assignment Berry

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

11.0504.01001
Title.02000

Adopted by the Government and Veterans
Affairs Committee

February 10, 2011

JB
2-11-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2169

Page 1, remove line 7

Page 1, line 8, replace "the house of representatives and the senate." with "The senate shall adopt rules regarding the recording of senate floor sessions and the house of representatives shall adopt rules regarding the recording of house floor sessions."

Renumber accordingly

Date: 2-11-11
Roll Call Vote #: 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2169

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments

Motion Made By Sorvaag Seconded By Cook

Senator	Yes	No	Senator	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent _____

Floor Assignment N/A

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

Date: 2-11-11
Roll Call Vote #: 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2169

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Cook Seconded By Sorvaag

Senator	Yes	No	Senator	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson		X
Senator Barry	X	X			
Senator Cook	X				
Senator Schaible		X			

Total (Yes) 4 No 3

Absent _____

Floor Assignment Sorvaag

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

REPORT OF STANDING COMMITTEE

SB 2169: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2169 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2169: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2169 was placed on the Sixth order on the calendar.

Page 1, remove line 7

Page 1, line 8, replace "the house of representatives and the senate." with "The senate shall adopt rules regarding the recording of senate floor sessions and the house of representatives shall adopt rules regarding the recording of house floor sessions."

Renumber accordingly

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2169

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2169
March 4, 2011
14957

Conference Committee

Committee Clerk Signature <i>Carmen Hart</i>
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Explanation or reason for introduction of bill/resolution:

Relating to audio recording of floor sessions of the legislative assembly

Minutes:

Chairman Bette Grande opened the hearing on SB 2169.

Ann Jenks, State Archivist, State Historical Society, appeared. She read the testimony for **Merl Paaverud, Director of the State Historical Society. Attachment 1**. Then she presented her testimony. **Attachment 2**.

Chairman Bette Grande: I thought we were being televised every day now. One week she is over here and one week she is over there.

Ann Jenks: They don't keep that. It is just broadcast live and then they don't record it. I know for example when our Heritage Center expansion bill was passed in the last session, we would have loved to have had a video of that. This is talking about an audio and that would still record really high points in North Dakota history or just when someone has a question about what occurred to go back and have that on the record.

Rep. Lisa Meier: What about additional cost in doing something like this? I know there is no fiscal note.

Ann Jenks: I think there is a fiscal note with this. I didn't bring it with me. I found it online. Legislative council prepared it and they talked about buying a Marantz system or something and digitally recording it and it was like \$4,000, not a large cost I don't believe, just to set it up initially. Then they would be storing that on the servers over at ITD. If anyone wanted to listen to one of the recordings, a member of the public, they could go to legislative council and sit there and listen to it or legislative council could put it on a CD for them.

Rep. Lisa Meier: How that would be implemented is they would go up to legislative council. If they came to let's say the historical society and wanted to know about a reference on a bill, they would come to the legislative council to hear it.

Ann Jenks: We would still have the hearings of the committees in the archives but the floor sessions would be at legislative council unless at some point in the future they

decided to send them over to the archives. I am thinking since it is digital ITD has all that on servers here in the capitol.

Vice Chairman Randy Boehning: How much storage is this going to take up because I know ITD doesn't do anything for free?

Ann Jenks: Audio recordings do not take up as much space as video recordings or even as still photographic images. It seems to me that the amount of time that on the floor sessions probably doesn't equal the time in the committee hearings. I think that cost may be billed into that fiscal note.

Rep. Roscoe Streyle: I'll use a hypothetical. Could I go in and get an audio recording and use it in a negative ad against my opponent, his own voice?

Ann Jenks: Pardon me.

Rep. Roscoe Streyle: Could I come and get an audio copy of this and turn around and use it in a negative ad with his own voice with something he said on the floor? In a political campaign?

Ann Jenks: It would be a public record and you could have a copy made and I suppose you could do anything with that copy that you wanted to.

Rep. Karen Rohr: I just have a question about your statement in that second to the last paragraph. You say to date floor sessions have not been captured on a regular basis. Could you just elaborate on that a little bit?

Ann Jenks: We do have the video from community access television that is the every other week video from 1995 to 2003.

Rep. Lisa Meier: Have you had requests from the public to actually hear floor sessions that have happened?

Ann Jenks: No, not to my knowledge. To this date we haven't had requests for that.

Rep. Ron Guggisberg: If I understand it right, we have tapes from 95 to 2003. Then they changed cameras basically and so they stopped keeping them. Is that right?

Ann Jenks: Community access television has provided us with the video of the alternating weeks that they record and then the other week that is currently being broadcast live on TV is not recorded. We have those beginning in 1995, but what we are talking about doing here is doing audio tapes of both floor sessions every day all the time.

Rep. Ron Guggisberg: Why did they stop recording them?

Ann Jenks: They may still be videotaping them every other week and broadcasting them live, the house. They are not recording. We just haven't gotten the most recent ones yet. I

am sure that we will eventually. We are then missing half of each house and senate floor sessions since it is alternating weeks.

Chairman Bette Grande: I am confused that we are not already audio taping this. I remember back in the time when Rep. Byerly was still here and he got up on a point of personal privilege and what he stated on the floor went viral on the web so somebody is recording something. How would that be that it is not being recorded?

Ann Jenks: To my knowledge the legislative council is not doing audio recordings of floor sessions of the house or senate and to my knowledge community access TV's live broadcast of the one house and the taping of the other is all that I know of. Someone could be in there with their handheld audio recorder taping. I am not sure.

Chairman Bette Grande: This came from the chamber, but I will check on that.

Rep. Lonny Winrich: I think and I don't know whether you can verify this or not but there are in fact several different sources of this material. The community access TV that you refer to is in fact a cable TV channel here in Bismarck. The streaming video that goes out on the web every day that they are doing is not part of the community access TV channel. It is something done separately by the legislative council I believe and it is streamed live on the web but not recorded. As far as the audio recording, the floor sessions are available on an intercom system in the capitol and there are speakers down in the press room. What you say on the floor can be recorded if someone down there is listening. I know because I have gotten emails from people like Dale Wetzal about my speeches sometimes so I know they are listening.

Rep. Gary Paur: You say these are going to be recorded on a server. You didn't mention anything about the historical society. Are you going to try to make them a more permanent record on CDs or something?

Ann Jenks: This bill did not come from the historical society. I am testifying in favor of it, but legislative council would be doing the recording and keeping the recordings on a server at ITD. Should they decide they don't want to handle that anymore, we would take it over and preserve it but at this time it is in the court of legislative council.

Senator Phil Murphy, District 20, appeared in support. My idea as a historian is simply that I was surprised that this was not kept. I know that we are recorded. I just thought it would be a good idea.

Rep. Karen Rohr: I really am all about transparency. I think that this is public record. My impression of the transparency laws always has been that you can have access to them, you can see, you can listen to them, but you cannot have copies of them. Is that true?

Senator Phil Murphy: I have no idea. Transparency might be obscenity. It is hard to define but we know it when we see it. I don't know. What transparency means it might be different things to different people.

Rep. Ron Guggisberg: I am still confused as to why we can't if they are videoing plus every day just record that and archive that. We wouldn't need new audio equipment. They do it with our city commission meetings in Fargo and it has to be easy.

Senator Phil Murphy: My understanding is that we had and legislative council advised me as we drafted this bill that in fact we have the current technology. We were doing it. It would be no appreciable cost or trouble to simply keep what we are already doing which was my only contention that it wouldn't be a bad idea. If I may address the idea that I heard earlier, could this be used in a negative way in a campaign? Of course, it could. My argument on that is it falls on itself. If someone is campaigning against you or I contending that we said something and there is an actual record of what we said, then it is right there.

Chairman Bette Grande: My only concern is when it is used in whole or part.

Senator Phil Murphy: I completely agree. There are all sorts of opportunities for disingenuous whatever we are using whether it is water, fire. It can all be good or bad.

Chairman Bette Grande: That is very true and especially in campaigning we are kind of wide open. No different than during the campaign a post card went out that said I missed all these votes. They just failed to say I left for my father's funeral. You can use it whatever way you want.

Senator Phil Murphy: Exactly.

Rep. Glen Froseth: Just a comment. If you watch the news regularly, you will see excerpts of national congress or senate or presidents or whoever taken way back many years ago. Many of them are taken out of context. It is done all the time on the national level. I suppose it could happen on the state level too. I think as a record of history, it would be very worthy of doing. I think the cameras are in both the house and senate chambers every day now this session; but that is a private closed network. They are suppose to bring live broadcasts to our cable TV in Kenmare through the BEK system. They have two channels dedicated, one to the senate and one to the house. I asked my wife if there was floor session on TV today. No, the screen was all black again. Very seldom it comes through.

There was no one opposed or neutral to this bill.

Chairman Bette Grande: I am going to have our intern read some information regarding this that is current law so we can have some background.

Steven Podoll, Law Intern, appeared. This is from Century Code 44-04-18. Subsection 1, except as otherwise specifically provided by law or records of a public entity are public records open and accessible for inspection during reasonable office hours. Subsection 2, upon request for a copy of specific public records any entity subject to Subsection 1 shall furnish the request for one copy of the public records requested. The request need not be made in person or writing and the copy must be mailed upon request. A public entity may charge up to 25 cents per impression of a paper copy. So, a person isn't just reviewing. They are taking that copy with them so they have possession of that copy. As views in the

section paper copy means for any copy of a record that is not a paper copy as defined in this section the public entity may charge a reasonable fee for making the copy. Subsection 3, access to electronically stored records is free if the records are recoverable without the use of a computer backup. If a request is made for access to a record on a backup or for a copy of an electronically stored record in addition to the charge in the section, the public entity may charge a reasonable fee for providing the copies including costs attributable to the use of information technology resources.

Chairman Bette Grande: This isn't a question for you, but maybe we need to find out more about one, it says that we are going to write rules to this effect. We could write rules that copies can't be made. It does not say anything about the archivists having to make copies in this law so it tells us that we could write the rules. It says they can come and have it accessible for inspection but that doesn't mean they can walk out the door with copies if we so state the rule. Just taking that into consideration to the committee.

Rep. Gary Paur: Wouldn't the law supersede the rules?

Chairman Bette Grande: I think the legislative branch will set their own rules though because it says set by rule. That would be a question for counsel.

Rep. Glen Froseth: Reading that brought to mind an interesting fact that is going to have be changed throughout the whole Century Code. There will be very few records from this point on that will require hard copies at 25 cents a copy. That is going to be a big job to update the code all the way through to make a charge for electronic copy or whatever it takes to get a record of that proceeding.

Chairman Bette Grande: That is going to keep Mr. Walstad busy. That is what we have Mr. Walstad and Mr. Nelson for.

Rep. Lonny Winrich: I had an experience with this earlier this session. I requested the audio of some committee hearings and what I got was an email from Mary with the audio file as an attachment. I downloaded it to a flash drive and you got a copy of it. I thought it was humorous the speculation about using this in campaigns. I would suspect that if the legislature passed a rule that said you couldn't get a copy or use it, that would be used in campaigns and I can just about guarantee it.

The hearing was closed.

Chairman Bette Grande: I am looking at Mr. Paaverud's testimony. It intrigued me in that this is the step in the process of formal review and approval as law. I want to ask the attorney general's office if floor debate is considered a part of the process for legislative intent. We utilize our committee discussions as legislative intent when law interpretation is needed sometimes. Is this then alluding to floor debate as part of the process for legislative intent? Where is interpretation going to lie?

Rep. Lonny Winrich: Questions about legislative intent come up in the floor debate from time to time.

Chairman Bette Grande: That is why I am intrigued by this. Where is that utilized in the judiciary system? How are they currently doing it and how will this affect how they are doing that? Legislative intent discussion on the floor sometimes might not be exactly what legislative intent was and so we need to be able to go back to solid record, not something that is spoke out without due diligent to the issue. I think it is great for the archive side of that but I just want to know what happens in the judicial side of it. I think this might be as simple as they are saying. I know they are recording up in front so why wouldn't they just be archiving and using it then? Maybe they are only using it to take and do the journal and then it is being re taped over.

Rep. Karen Rohr: Just looking at the two testimonies I think that is part of the problem. It is inconsistent. What is being done? That is not clarified anywhere. All it says is what you do with it. I think that should be part of this legislation if it gets passed.

Chairman Bette Grande: That is kind of the key to Lines 7-8, adopt rules.

Discussion ended.

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2169
March 17, 2011
15631

Conference Committee

Committee Clerk Signature

Casmer Hunt

Explanation or reason for introduction of bill/resolution:

Relating to audio recording of floor sessions of the legislative assembly

Minutes

Chairman Bette Grande opened the discussion on SB 2169.

Rep. Roscoe Streyle made a motion to strike shall and exchange it with may on Line 7. On Line 8 strike shall and exchange it with may. Line 9 strike shall and replace it with may.

Rep. Vicky Steiner seconded the motion.

Rep. Lonny Winrich: Was there an explanation why this only applies to the senate?

Chairman Bette Grande: The first line is the senate. The second line is the house. I checked and the recordings that are taking place down at the front are just on Dictaphone. That goes into the record of our journals. As soon as the journal is recorded, that goes away and they start the tape again. There is no permanent recorder down there. The press room might be making recordings. The televised action upstairs, I bet somebody could sit at their home and when that is being broadcast, they could be recording it if they want. I have a feeling there are plenty of things out there.

Rep. Roscoe Streyle: Should the Line 10 be a may or a must?

Chairman Bette Grande: I don't think we need to touch that.

Rep. Vicky Steiner: They are not recorded now?

Chairman Bette Grande: No and until the mays are taking place, 10 doesn't exist.

Rep. Roscoe Streyle: That is true.

Vice Chairman Randy Boehning: Reading Lines 9-11, audio recordings of floor sessions are public records that must be open and accessible for inspection during reasonable office hours. They are recording it now so with this bill would they have to save those?

Chairman Bette Grande: The legislative council may archive all audio recordings of the floors. The audio recordings of the floor sessions are public so if they do make an audio recording, it will be public record. They have to do the first part to get to the second part.

Rep. Mark Sanford: I think the attorney general's office gives guidance on any public record in terms of how long they must be maintained and if there are any questions at all.

Rep. Lonny Winrich: I am going to resist the amendment although I don't think it is really a big deal. I do think there is an issue of transparency here and the technology has gotten to the point now where it is relatively easy and not terribly expensive to do this and archive it. I think the public should have access to those kinds of records. I would urge a no vote on the amendments.

Chairman Bette Grande: The public does have access to quite a bit as far as legislature. That has really opened up a lot over the years and I think it will continue to do so. I have a concern on the audio recording versus the video recording. I would have done the whole video because to me my gestures, the whole portion of knowing was I standing there in sarcasm versus an audio recording of which can be misconstrued, I think you left the legislature in discussion there. I think that if you are going to do it, you do the whole thing or do it differently. I like the idea of the mays here because it is something we can look into and figure out how and they can get that taken care of if that is what they decide to do. I like this amendment myself.

A voice vote was taken. Motion carried.

Rep. Roscoe Streyle moved a Do not pass.

There was no second. The motion fails.

Rep. Vicky Steiner made a motion for a Do pass as amended.

Rep. Lisa Meier seconded the motion.

***DO PASS AS AMENDED, 11 YEAS, 0 NAYS, 2 ABSENT. Rep. Bill Amerman is the carrier of this bill.**

*Rep. Guggisberg came in right at the start of the vote and was given a copy of the amendment. At first he voted nay. Then he asked if this was on the amendment or the bill. Chairman Grande stated it was on the bill. He stated that he wanted to change his vote to a yea on the bill and she said he could.

March 17, 2011

V/K
3/17/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2169

Page 1, line 7, replace "shall" with "may"

Page 1, line 8, replace "shall" with "may"

Page 1, line 9, replace "shall" with "may"

Renumber accordingly

Date: 3-17-11
 Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2169

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Streyle Seconded By Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman		
Vice Chairman Randy Boehning			Ron Guggisberg		
Glen Froseth			Lonny Winrich		
Karen Karls					
Lisa Meier					
Gary Paur					
Karen Rohr					
Mark Sanford					
Vicky Steiner					
Roscoe Streyle					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*voice
 vote
 to accept
 amendment
 motion
 carried*

Date: 3-17-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. _____

House GOVERNMENT AND VETERAN AFFAIRS Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Streyle Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman		
Vice Chairman Randy Boehning			Ron Guggisberg		
Glen Froseth			Lonny Winrich		
Karen Karls					
Lisa Meier					
Gary Paur					
Karen Rohr					
Mark Sanford					
Vicky Steiner					
Roscoe Streyle					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

motion fails second

Date: 3-17-11
 Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2169

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Steiner Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande	✓		Bill Amerman	✓	
Vice Chairman Randy Boehning	✓		Ron Guggisberg	✓	
Glen Froseth			Lonny Winrich	✓	
Karen Karls	✓				
Lisa Meier	✓				
Gary Paur	✓				
Karen Rohr					
Mark Sanford	✓				
Vicky Steiner	✓				
Roscoe Streyle	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Amerman

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

3-17-11 Rep Guggisberg stated on record & asked to charge vote from may to year
Call Hat

REPORT OF STANDING COMMITTEE

SB 2169, as engrossed: Government and Veterans Affairs Committee (Rep. Grande, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2169 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "shall" with "may"

Page 1, line 8, replace "shall" with "may"

Page 1, line 9, replace "shall" with "may"

Renumber accordingly

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

CONFERENCE COMMITTEE

SB 2169

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2169
April 7, 2011
16419

Conference Committee

Committee Clerk Signature *Katie Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to audio recording of floor sessions of the legislative assembly.

Minutes:

No testimony attached

Chairman Sorvaag called the conference committee on SB 2169 to order, roll was taken, and all committee members were present.

Representative Streyle: The wording 'may' doesn't say that legislative management won't do this it just gives them the ability to do it or not do it. There is already cameras ordered for next session. According to the Attorney General, legislative intent isn't anything that is discussed on the floor and storage costs were the reasons that we decided that 'may' was a better word than 'shall'. Like I said it doesn't say that legislative management won't do it, it just gives them, I think, worthy authority of whether or not they do it.

Senator Sorvaag: The original bill was much more mandatory and we had amended it down to this. The rationale was that it had to be done, but it left a lot of flexibility and that was the intent. It was mainly up to the leadership to do it how they want it.

Senator Cook: Is there some reason that it wouldn't be done that you are thinking of?

Representative Streyle: There could be parsing of words. If we are going to do it I would appreciate a camera instead. Obviously they can go into the press room and record it now they just are not archived. So those are some of the committee discussions, the ability to take out of context what somebody said and use it against them.

Senator Cook: We had a good discussion about that and that is why we wanted to have the legislature through our rules process, writing those rule, to make sure that things like that don't happen. Also I believe that we were informed that the tape that is taken is being archived.

Representative Boehning: Chairman Grande checked and they recording every day but once the journal is completed they erase it.

Chairman Sorvaag: We were also told that they were being kept somewhere already and this would make it official. We were also told that from 1995-2002 there was a cable channel and you could watch it. I agree with Senator Cook that we need to follow up and make sure we are talking about the same thing because it was implied to us that the audio records are being kept somewhere.

Representative Streyle: Maybe it's different between the House and the Senate, which wouldn't make much sense but we can check on that.

Senator Sorvaag: There was a concern; we don't want someone else dictating what are doing in out chambers. We can just research and follow up on this. Is there any further discussion?

There was no further discussion and Chairman Sorvaag adjourned the conference committee on SB 2169.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2169
April 12, 2011
16507

Conference Committee

Committee Clerk Signature *Kate Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to audio recording of floor sessions of the legislative assembly.

Minutes:

No testimony attached

Chairman Sorvaag called the conference committee to order, roll was taken and all members were present

Representative Streyle: The House is willing to agree to the Senate's bill.

A motion was then made by Representative Streyle for the House to recede from the amendments made in the House with a second by Representative Boehning.

Representative Boehning: I think that we are, on both sides of the isle, not trying to use this for political gain and I am sure the rules will say something to that affect.

Chairman Sorvaag: Even though we put 'shall' in the Legislative Council will set the rules.

Representative Boehning: I think that the Attorney General had opinion on this as well, that the recordings could not be used for legislative intent.

Senator Cook: I made it very clear that when somebody speaks on the floor it is the intent of that individual; it in no way reflects the intent of the legislature. The only thing that I regret is that it is not recorded and put in the journal.

There was no further discussion, roll was taken, the motion passed with Chairman Sorvaag and Representative Streyle carrying the bill to the floor.

2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Government + Veterans Affairs

Bill/Resolution No. 2169 as (re) engrossed

Date: 04/12/11

Roll Call Vote #: 1

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

Senate/House Amendments on SJ/HJ page(s) _____

Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: Stroyle Seconded by: Boehning

Senators				Yes	No	Representatives			
<u>Sorvaga</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>		<u>Stroyle</u>	<u>X</u>	<u>X</u>	
<u>Cook</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>		<u>Boehning</u>	<u>X</u>	<u>X</u>	
<u>Mancellais</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>		<u>Amerman</u>	<u>X</u>	<u>X</u>	

Vote Count: Yes 6 No 0 Absent _____

Senate Carrier Sorvaga House Carrier Stroyle

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2169, as engrossed: Your conference committee (Sens. Sorvaag, Cook, Marcellais and Reps. Streyle, Boehning, Amerman) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 807-808 and place SB 2169 on the Seventh order.

Engrossed SB 2169 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2169

SB 2169
Senate Government and Veterans Affairs Committee
January 20, 2011

Testimony by Merl Paaverud
State Historical Society of North Dakota

Mr. Chairman and members of the Committee, my name is Merl Paaverud and I am director of the State Historical Society of North Dakota. I am here today to present my testimony on Senate Bill 2169 that would enact a new section to chapter 54-03 of the North Dakota Century Code.

The North Dakota legislature now has recordings made of committee meetings held during the regular session, interim and special meetings. These recordings provide a very good record of the proceedings and are useful in putting together the final bill. The recordings would also be available for review of the bill at a later date.

Having the floor session recorded would be beneficial in that it is the final and formal review and approval for the legislative process. This change will ensure accuracy and keep a historical record of the bill and the legislative process.

This concludes my testimony.

Attachment 1

2169

SB 2169
Government and Veterans Affairs Committee

March 4, 2011

Testimony by Merl Paaverud
State Historical Society of North Dakota

Chairperson Grande and members of the Committee, my name is Merl Paaverud and I am director of the State Historical Society of North Dakota. I have asked State Archivist Ann Jenks to present my testimony in support of Senate Bill 2169.

The North Dakota legislature now records committee meetings held during the regular session, interim and special meetings. These recordings provide a record of the legislative proceedings and are useful in putting together legislation. The recordings are available for review at a later date or used to guide development of other bills in the future.

Having the floor session recorded would be beneficial in that it would document the final step in the process of formal review and approval as law. This change will ensure that accuracy is maintained and will keep a permanent historical record of the workings of the North Dakota Legislative Assembly.

Thank you for your consideration.

Attachment 2

2169

Government and Veterans Affairs Committee
March 4, 2011

Testimony by Ann Jenks, State Archivist
State Historical Society of North Dakota

Chairman Grande and members of the Government and Veterans Affairs Committee, my name is Ann Jenks and I am the Director of the State Archives for the State Historical Society of North Dakota. I am here today to present testimony on SB 2169.

The Explanation:

The State Archives has House and Senate Bills and Resolutions, minutes of Standing Committees, legislative calendars, and photographs. We also have cassette tapes of Legislative Committee hearings from 1977 to 2005 when a digital recording system was installed. Community Access Television has videotaped House and Senate floor sessions on alternating weeks from 1995-2003 and deposited them in the Archives.

The floor debates and votes are just another piece of the record of the business of North Dakota government. To date floor sessions have not been captured on a regular basis and would provide a complete record of the legislative process for the citizens of the state.

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