

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2279

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2279
January 28, 2011
13622

Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to veterans' preference

Minutes:

Testimony Attached

Senator Lee: See attached testimony #1

John Jacobsen: See attached testimony #2

Ron Otto: See attached testimony #3 (from Lyle Schuchard)

Lonnie Wangen: See attached testimony #4

Senator Nelson: Page 1 when you defined agency, you don't list counties and cities.

Lonnie Wangen: We caught that also and have dealt with it in the next paragraph.

Senator Nelson: Does this bill harmonize with the other bill relating to veterans' preference?

Lonnie Wangen: We were not made aware of that bill. We didn't see how that would be affected by this legislation.

Ron Otto: See testimony # 5.

Senator Nelson: So if we fix lines 13 & 14 then we are ok.

Ron Otto: Yes

James Martle: See attached testimony #6

Bev Nelson: North Dakota School Boards Association. On page 6 line 15 we are going to make the suggestion for the exemption of the superintendant of schools and we skip teachers and principals. In most of the school section of code teachers are defined at classroom teachers.

Bev Nelson: Mother of an Air Force Pilot and from a personal standpoint, as times have changed I think that we are using outdated terminology. Maybe we need to be a little bit clearer explanation. Those who stand ready to serve have the same benefit than those who are

actually in the war zone during the war, I think that it expands the preference and I think that is ok.

Chairman Dever: Those timeframes are spelled out in the Code and I recall it leaves it open ended so that we can add to it.

There was no further relevant testimony on SB 2279 and Chairman Dever closed the public hearing.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2279
February 17, 2011
14683

Conference Committee

Committee Clerk Signature *Kate Ouse*

Explanation or reason for introduction of bill/resolution:

Relating to Veteran's preference.

Minutes:

No testimony attached

Chairman Dever handed out amendments from Lonnie Wangen

Chairman Dever: One thing we need to consider is that they struck the word wartime. Currently only wartime vets qualify for veteran's preference. I think that by the definition of wartime that most Veteran's would fall under that.

Vice Chairman Sorvaag: Part of this bill is SB 2211; we are changing this so that would be changed. Are we conflicting ourselves?

Senator Cook: It is a possibility that this could fail.

Chairman Dever: I am looking at the amendments.

Senator Cook: I can't get beyond state subdivisions. It seems as written to be all inclusive. Why the change?

Chairman Dever: I think that part of the amendment, he might have been confused, and I wonder if he was thinking state agencies. I am not real sure what that is necessary. It is my understanding that you can use veteran's preference to get hired by a state agency but you cannot use it to get a job with another agency or to get a promotion. I think that this is saying the same thing.

Vice Chairman Sorvaag: But it is adding the political subdivisions in where they are not in.

Chairman Dever: I am looking at the bottom of page 3 which say to me what I thought was in current law. Lines 14-16 on page 4 say that they are the same as regular veterans.

Senator Cook: I thought that there was a point system.

Chairman Dever: 5 points for a veteran or 10 for a disabled veteran.

Senator Cook: It seems that it is written in a way that if they don't have any other disabled vets then that person would automatically get the job.

Chairman Dever: I had the intern did print out the wartime dates: June 27 1950-January 31 1955, August 15 1964-May 7 1975, August 2 1990-Jan 2 1992, the period beginning September 11 2011. A veteran is someone who has "served on continuous federalized active military duty for 180 days or for the full period for which the individual is called or ordered to military duty for reasons other than training. And who was discharged or released for other than dishonorable conditions" a wartime veteran is "an individual who served in the active military forces during a period of armed conflict or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released under other than dishonorable conditions" so if they were in an accident while on active duty even if it was not combat related they would still be considered a wartime veteran.

Senator Cook: Where is the wartime vet being done in here?

Chairman Dever: Page 2 line 8.

Senator Schaible: Do you have the history as to why this came to us.

Chairman Dever: No except the administration committee had this put together. There are issues that have been around veteran's preference for a long time. We tweaked the definition of 'justifiable cause' if an agency denies a position to a disabled vet that they have to send a letter justifying the cause.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2279
February 17, 2011
14691

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to veteran's preference.

Minutes:

No testimony attached.

At the request of the committee Kristen Fransen from the Attorney General's Office came in to discuss the matter of veteran's preference.

Kristen Fransen: The Attorney General's Office is neutral in regard to the policy that this bill has in it; in drafting the bill I was involved in that procedure. I represented Human Resource Management Systems with regard to the drafting of this bill. Human Resource Management Systems worked closely with Lonnie Wangen and my understanding that we were all in agreement and I am opened for questions that you may have.

Senator Cook: What will help or hinder a Veteran if we pass this bill?

Kirsten Franzen: Essentially it clarifies the veteran's preference that we have in place today. There is actually 2 ways an individual can receive preference: 1 is, what was previously referred to as a personal system, now we are changing the wording to a competitive personal system. That difference basically means when there is an application system for a job if there is a ranking component the veteran's preference is treated a little bit differently. Essentially with regard to a situation where there is no ranked system that doesn't change at all. A regular veteran would still receive the same point value as he or she would in this scaled system. The difference is once these individuals get into the system the playing field is leveled at that point. In my opinion talking to the veteran affairs commissioner and Human Resource Management Systems that it was jointly agreed upon and was given the blessing of all the veterans groups. As the veterans preference policy is now, if they work in state government for many years and

that individual applies for another position within state government that person will again be able to use veteran's preference. It was important to the veteran and Human Resource Management Systems to give veterans one opportunity to use veteran preference. My understanding is that the policy behind the changes is and I think that the procedure reflects that.

Senator Cook: Is there any place in state government that we do not use competitive personal system?

Kirsten Franzen: There are a few. From an HR perspective a competitive personal system has a lot of support. We are trying to take away bias from the hiring process; it shows that we are really considering the merit of the candidate. Having a point system is favored and one thing that this legislation does is encourages agencies to use those kinds of competitive personal systems. There are some agencies that don't use it, once you start looking at higher level decisions they are less likely to use scoring systems, per say. Some of those qualities that they are looking for in a candidate are a little more abstract.

Senator Cook: If you do not have a competitive personal system a disabled veteran is first entitled to the position. So, as I read this it appears that if there is no competitive personal system a disabled veteran applies for a position and they are the only disabled veteran that applies, they must be hired regardless of their qualifications for the job or not. Am I reading this wrong?

Kirsten Franzen: In order for veteran's preference to apply they need to meet the minimum requirements and at that point the veteran's preference only applies when someone has shown themselves to meet those minimum qual. Would be applied or actual preference is there if no competitive personal system used.

Chairman Dever: If they get interviewed they have the job

Kirsten Franzen: If there is no competitive personal system used then yes that would be the case. We would like to say that is not the case; there are techniques that we engage in HR; there are objective criteria that we use to evaluate each applicant. Sometimes there is an art in addition to the science. The things that we look for in the interview and the other hiring tools that we use are consistent to the job responsibilities. People are given correct tools for when they are conducting interview. We also look at objective criteria there are many that go into this rating score. That's why we try and motivate agencies to use a competitive personal system.

Vice Chairman Sorvaag: The veteran, if they all meet the minimum requirements, would a justifiable cause be that the veteran is just so superior of a candidate?

Kirsten Franzen: That is not correct; the concept of justifiable cause is not a comparative idea. If you like one candidate more than a vet that is not justifiable cause. It's somewhat of an abstract concept but it is defined in the bottom of page 1.

Chairman Dever: Does disabled mean any level of disability?

Kirsten Franzen: If the federal government determines them to be disabled then we do as well.

Chairman Dever: Can a spouse use veteran preference?

Kirsten Franzen: That is one of the best parts of the bill. Spouses of disabled vets are allowed to use preference. However, the law that exists right now isn't clear on at what point a spouse of a disabled vet is allowed to use their preference. Does a vet have to be totally disabled in order for the spouse to use? Is it specific to the job that they are applying for? It is hard sometimes to do that. The wording that they use explains the situation when they can use it. Lonnie has been working with people from my office in finding the definition as it is written in Federal law.

Chairman Dever: Are you the person in the Attorney General's office who provides that advice to HRMS?

Kirsten Franzen: By and large yes, that is correct. Sometimes I work for Human Resource Management Systems and sometimes I work for an agency that has an issue with Human Resource Management Systems. With this issue yes, I was working with Human Resource Management Systems.

Senator Marcellais: Human Resource Management Systems to get the veteran in the workplace? Why not start a training program?

Kirsten Franzen: My understanding is that there are such programs through job service but as I am not connected with that work so I am speaking off the cuff. The issue that we are dealing with is lost time. People that serve their country have that course of events gets interrupted. One of the main purposes of veteran preference is having 2 people for a job. 1 is a service member who has no experience and the other isn't a service member and has the same education and the experience that the serviceman may have forgone with time away. This is just one possible way to reintegrate these folks back home

Chairman Dever: Have you looked at Lonnie's amendments? Can somebody use veteran's preference to get hired and then to get promoted?

Kirsten Franzen: That is correct. What have we seen a lot of is people who have been in state government for 20+ years and every time that happened they are allowed to use veteran preference. That is not consistent with what need to happen and reintegration.

Chairman Dever: Is the point of his amendment to extend to the political subdivisions what is required of the state agencies?

Kirsten Franzen: If I understand your question I think that veteran preference already applies to political subdivisions.

Chairman Dever: But the new language into the bill on page 6 lines 23-24. Does it necessarily create the political subdivisions?

Kirsten Franzen: Clarify internal applicant and external applicant versus how that would transfer. If you go between local governments and the state veteran preference would not apply, this is a complicated process and I spend a lot of time trying to educate agencies on how to use this properly.

Senator Cook: I think that the question is: the amendment on line 8 page 1 seems to say the same thing that the bill is. What are we changing?

Kirsten Franzen: I believe that we got some input from people involved with political subdivisions who preferred that language.

Senator Cook: We are not changing political subdivisions we are changing state subdivisions.

Kirsten Franzen: My understanding is that state subdivisions were used to be an equal and opposing definition.

Senator Cook: The intent of the drafter is that you cannot use preference when applying with in a political subdivision or state but you could use it if you were going from the state to a political subdivision.

Kirsten Franzen: Yes. My understanding is that language was altered in that way to indicate that we are talking about, when we are trying to apply laws to state agencies what we are trying to do it be clears what we are talking about. Want to know that the employer under these circumstances with regard to the state itself is identified as the state as a whole.

Chairman Dever: Different agencies are considered to be different employers depend on the law that applies.

Kirsten Franzen: Some laws only apply to employers that only 50 under does it apply to them or not. That is why we are trying to be clear as to who the employer is and for these purposes we want to make clear.

Senator Cook: Not all state agencies have Competitive Personal System

Kirsten Franzen: I want to be clear with regard to that issue. If a Competitive Personal System applies it is not agency specific it is position specific. With positions that require less education, less applicants, ect the Competitive Personal System applies. Those qualities are harder to write qualifications for. I don't think that it is fair to say that they are uniform. Because of the.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2279
February 18, 2011
14727

Conference Committee

Committee Clerk Signature *Kate Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to Veteran's preference.

Minutes:

No testimony attached

Chairman Dever: Seems to me that we have 2 issues that we have to discuss one is the amendments offered by Lonnie Wagen amendments and page 2 line 13 to change from Wartime Veteran to All time Veteran.

Senator Cook: I am comfortable with the amendments now. Maybe I understand it a little better now. The wartime thing causes me concern, not so much the benefits offered to a vet but the benefits that are offered to a disabled vet. Veteran vs. disabled veteran I have a little bit harder time being treated equally.

Chairman Dever: If they are full time deployed and they get hurt it is disability. If they are employed temporary, the instance of flood control, they are covered under workers comp, not disability.

Senator Cook: That is the only red flag that pops in my mind.

Chairman Dever: One way to differentiate is if they got a purple heart.

Vice Chairman Sorvaag: You could tie those together.

Chairman Dever: Yes but I don't know how we would do it in the bill.

Senator Schaible: I would like to see the wartime stay in the bill.

Senator Nelson: What's subsection 2 of 37.01-40 because they are changing it to subsection 1?

Senator Cook: I guess one is wartime and one is not.

Senator Nelson: I just want to know what their definition is.

Senator Cook: The dates that the country is at conflict.

Vice Chairman Sorvaag: I think that the only problem is wartime is more than just when we have declared a conflict. We have Special Forces that are engaging people all the time if we know about them or not. I just want to make sure that they are not excluded from this as well.

Senator Cook: So everyone that is serving right now is a wartime veteran.

Chairman Dever: There is a Veteran only if they fit the definition of subsection 1. Basically what this amendment is doing is placing it under the veteran definition.

Senator Cook: I think that I even heard when they justify it that they want to make sure that current disabled Veterans are covered.

Chairman Dever: And she indicated that the purpose is reintegration.

Senator Cook made a motion that the committee remove the overstrike over the word 'wartime' remove the overstrike over the word two and remove one. There was a second by Senator Schaible, there was no further discussion, roll was taken and the motion passed 7-0.

Chairman Dever: The amendments from Lonnie Wangen I had some questions on.

Senator Nelson: Why do we need to use the word mail twice?

Chairman Dever: Delivered sounds better to me

Senator Nelson: me too. Notice how is he isn't consistent?

Senator Cook: I looked at that too, they are making that consistent. If you look at who you are putting the onus on and it says it has to be by certified mail then it's on the mailman so I think that is why mail is the correct word. If you read the whole sentence

Senator Nelson: Line 26, that delivered should be mailed and on line 28 it should stay as mailed.

Chairman Dever: The other question on page 1 line 8, does that language work out?

Senator Cook: After the lengthy explanation I became comfortable with it.

Senator Nelson: Difference between state subdivision and political subdivision?

Chairman Dever: We removed the state and so it will read, "agency or governmental agency means all state subdivisions and political subdivisions including" then it would list all the agencies. Different agencies act as separate employers.

Senator Nelson: You now have agencies meaning, "all state subdivisions political subdivisions" because you didn't delete anything

Senator Cook: There should be a coma after state subdivisions.

Chairman Dever: Instead of subdivisions it would be 'and' including any.

Senator Nelson: Just including 'state and.'

Chairman Dever: Then the only change in the proposed amendments is page 1 line 8, remove subdivision and replace it with and

A motion was made by Vice Chairman Sorvaag to adopt the Lonnie Wangen amendments as adjusted with a second by Senator Schaible. There was no further discussion, roll was taken and the motion passed 7-0. A motion was then made by Senator Cook for a do pass as amended with a second by Vice Chairman Sorvaag there was no further discussion, roll was taken and the motion passed 7-0 with Senator Marcellais carrying the bill to the floor.

Date: 2-18-11
 Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2181

Senate Government & Veterans 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 Cook Seconded By Schaible

Senators	Yes	No	Senators	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 _____

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

February 18, 2011

JB
2-18-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2279

Page 1, line 8, remove "the state and"

Page 1, line 8, remove the overstrike over "and" and insert immediately thereafter "the state"

Page 6, line 23, remove "This section does not apply to individuals who are currently employed with any state"

Page 6, replace line 24 with "An employee of a state agency is not eligible for preference when applying for a different job within the same state agency or other state agencies. An employee of a political subdivision is not eligible for preference when applying for a different job within the same political subdivision."

Page 7, line 26, overstrike "delivered" and insert immediately thereafter "mailed"

Page 7, line 28, remove the overstrike over "mailed"

Page 7, line 28, remove "delivered"

Renumber accordingly

Date: 2-18-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2187

Senate Government + Veterans 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 Sorvaag Seconded By Schaible

Senators	Yes	No	Senators	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 _____

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

Date: 2-18-11
 Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 279

Senate Government + Veterans 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 Cook Seconded By Sorvaag

Senators	Yes	No	Senators	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 Marcellais

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

REPORT OF STANDING COMMITTEE

SB 2279: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2279 was placed on the Sixth order on the calendar.

Page 1, line 8, remove "~~the state and~~"

Page 1, line 8, remove the overstrike over "~~and~~" and insert immediately thereafter "the state"

Page 6, line 23, remove "This section does not apply to individuals who are currently employed with any state"

Page 6, replace line 24 with "An employee of a state agency is not eligible for preference when applying for a different job within the same state agency or other state agencies. An employee of a political subdivision is not eligible for preference when applying for a different job within the same political subdivision."

Page 7, line 26, overstrike "delivered" and insert immediately thereafter "mailed"

Page 7, line 28, remove the overstrike over "~~mailed~~"

Page 7, line 28, remove "delivered"

Renumber accordingly

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

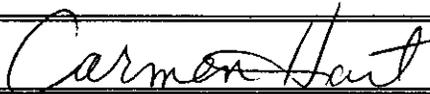
SB 2279

2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2279
March 10, 2011
15283

Conference Committee

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

Relating to veterans' preference

Minutes:

Chairman Bette Grande opened the hearing on SB 2279.

Lyle Schuchard, Chairperson, ND Administrative Committee on Veterans' Affairs, appeared in support. **Attachment 1.**

Chairman Bette Grande: I do want to point out something on Page 2, Line 13. Senator Dever told me they thought they had amended out the overstrike over wartime. For some reason it is showing up on our copies. If that is the case, we will need that as an amendment.

Lonnie Wangen, Commissioner of Veterans' Affairs, appeared. **Attachment 2.** There were questions as Mr. Wangen went through his testimony.

Rep. Lonny Winrich: You intend to remove the wartime requirement?

Lonnie Wangen: That is correct.

Rep. Lonny Winrich: Then the strikeover on Line 13 that you referenced is correct.

Chairman Bette Grande: It is except the senate had a motion to undo what you are asking. Is that not correct?

Lonnie Wangen: I was not aware of that. In speaking with Chairman Dever and the amendments that we went over before it went to the subcommittee to get rewritten with the amendments that we had, I was not aware of that.

Chairman Bette Grande: I will double check because that was the notation I was given this morning.

Vice Chairman Randy Boehning: Is this just applying to the state and public entities? Does this apply to private enterprise as well?

Lonnie Wangen: This is just for state and political subdivisions, the counties, cities, not private sector at all.

Vice Chairman Randy Boehning: We have a process in state government. Have you talked with OMB on this as well? If an employee files a complaint, we have a process here. Is that a similar process you have?

Lonnie Wangen: You are talking about like an appeal on a veteran's preference claim?

Vice Chairman Randy Boehning: Yes.

Lonnie Wangen: Yes, that will be addressed in here also. OMB was involved in the drafting of this bill.

Vice Chairman Randy Boehning: When you look at Page 7, Line 22, where you add in calendar days when it was 15 days before, is that 15 working days?

Lonnie Wangen: It was always interpreted as calendar days. It was written in calendar days I believe in other sections but it wasn't everywhere it needed to be.

Vice Chairman Randy Boehning: When you come to the holidays around Christmas, the 15 days gets really short.

Lonnie Wangen: Right. That is what they wanted. Working with OMB and HR and the other agencies, it is fair to the veteran and to the agencies that this move along quickly because if they hire somebody and there is an appeal they really can't employ that person because if there is a change that person gets the position.

Rep. Lonny Winrich: Is it possible to characterize the jobs that are filled by a competitive process as opposed to those that are not filled by a competitive process? Is there some sort of difference between the jobs to be done or does it just depend on the agency?

Lonnie Wangen: That is up to the agency. Some cities, counties, or different agencies do not use the competitive system and, therefore, we have that spelled out separately for them. It is either competitive or noncompetitive is what they called it.

Rep. Gary Paur: This looks like a major rewrite of the veterans' preference. You said a lot of it is just moving things around. Do we have any way of telling what changes were made in the law outside of just rearranging it?

Lonnie Wangen: I believe it would be still in the first draft of this. It still shows what was crossed out and what was moved. When you see a lot of things that are crossed out, they are moved to one section. Basically what we did...

Rep. Gary Paur: I realize that. Some of those you didn't change. You just moved.

Lonnie Wangen: Right.

Rep. Gary Paur: How are we going to determine what changes you made outside of just moving?

Lonnie Wangen: With my testimony in the handout there basically mentions what were changed. Some of the big changes were removing the wartime, the competitive, not having to have the justifiable cause because it doesn't apply in that situation so the competitive and noncompetitive being separated, and the application of using veterans' preference for promotion within your own organization or from one state agency to another state agency. There are some attorney general's opinions on that you cannot use veterans' preference for a promotion already so we clarified that but that is a change that is actually in law now.

Rep. Gary Paur: Basically what you put in here are the changes besides moving around?

Lonnie Wangen: That is correct.

Rep. Ron Guggisberg: Is competitive personnel system basically defined by a system where it is numbered from 1 to whatever or is there another way?

Lonnie Wangen: Yes. OMB's HR department would define that for you if you want to look into it. Basically what happens is you will have normally a 100 point scale. Some may use more than that. If you have a 100 point scale, you might give 20 points to education, 20 points to experience. Maybe typing skills or computer skills get up to 10 points and then off of that you might say what do we give for points in computers? If they have so many years of experience with word we will give 5 points or what not so they can get that 10 points and they break it down like that. When they get the application, they will look at that and they will add up all those points. With that they are to apply an extra 5 points for a veteran and an extra 10 points for a disabled veteran after all the scoring is done. If you had the perfect candidate that had 100 points and is a disabled veteran he could get 110 points. If you use a 150 point scale, then you have to use the 5 or 10% and that is spelled out in here also.

Rep. Ron Guggisberg: Why can't we apply some of this or all of this to the private sector? Are there rules for that or what?

Lonnie Wangen: I don't believe there has ever been any position where we have had veterans' preference laws to the private sector.

Rep. Ron Guggisberg: I was just curious if there was a law against it.

Lonnie Wangen: Not that I know of. It is a good question. We do encourage the hiring of veterans. We work with Job Service to promote hiring a vet.

Rep. Glen Froseth: Section 1, Subsection 1, government agency means all political subdivisions so you are including all cities, townships, and counties. That level would also come under this new regulation. I doubt whether they are going to have the expertise to calculate this system on how to rate a preference to a veteran over someone else. Some of those smaller cities and political subdivisions probably wouldn't be able to rate that individual and give it the proper reference rating.

Lonnie Wangen: On Section 1 the only thing that we have added is the state including. This other is currently in the law. Part of the reason for this bill is to clarify it and make it simpler for those smaller agencies to follow along. A lot of them will use the noncompetitive system. Then they would follow under that Section 2. If they use the competitive system, it will all be spelled out for them in that Section 3.

Rep. Glen Froseth: You are adding a lot of different steps they go through to rate and determine the preference.

Lonnie Wangen: Yes. What we are doing is we are taking a lot of that out of the North Dakota Administrative Code and moving it over here to clarify and make it easier for them to follow. What we are doing with a lot of that is what is already common practice and when they were to call OMB, HR, Job Service, or one of our officers for advice on how to apply it, this is in the veterans' handbook already. We wanted to clarify it and put it step by step instructions so it makes it easier.

Rep. Glen Froseth: It might be in the handbook but try to have someone decipher it might be a problem.

Rep. Karen Rohr: We didn't have the competitive personnel system clarified before but it was still in use?

Lonnie Wangen: Yes. They just called it the personnel system in here so we added the word competitive.

Rep. Karen Rohr: Do we have data that lets us know what percentage of veterans are hired into these competitive, noncompetitive and then including the spouse?

Lonnie Wangen: No. I have worked with the OMB and HR to work on some of those but we haven't had any data at this point.

Laurie Sterioti Hammeren, Director for Human Resource Management Services, appeared. I would have to check with the people soft system, but I think we do probably have some codes in there that might identify veterans' status. I don't know about the spouse of a veteran, but I certainly would look at that and could provide whatever information we have available through our records.

Rep. Karen Rohr: It would be nice to see the success of this policy.

Laurie Sterioti Hammeren: The other thing I would add is that a lot is not new. Political agencies, governmental agencies have been required to do this for some time. A lot of it follows the federal sources of funding for programs and agencies. It kind of goes back, you may recall, to the term merit system agency and those agencies that receive federal funding. That is how we got into the competitive requirements. They were all merit requirements prior. Now we call them a competitive personnel system. We have other agencies that don't receive those federal monies but do follow good HR practice.

Rep. Bill Amerman: I will give you a scenario. I am a veteran and an agency is looking for an individual. Let us say they get 20 requests but they only want to interview 5. What the 5 preference points do is help me get amongst that 5. After that those points really don't help? That is up to the interview, so on and so forth?

Lonnie Wangen: Yes, that is correct. That moves you up into that pool to be interviewed and get the job.

John Jacobsen, Chairman of the Legislative Committee of the North Dakota Veterans' Coordinating Council, appeared in support. **Attachment 3.**

There was no opposition.

Neutral:

Ron Otto, Morton County Veteran Service Officer, appeared. I speak to Page 2, Line 13-14 in order to clarify that definition. We have a time of peace from 1975 to 9-11 so we have over 25 years of a period of peacetime. I urged the senate to continue the definition of veteran as wartime veteran. My understanding is that they intended to do that or did do that and didn't make it into this particular bill that you are looking at now and you see two overstrikes. It needs to be if such is the case they will correct it to take the overstrike out of wartime and basically to take the overstrike out of number 2 and take away the number 1. In order to further clarify, my testimony is written on the senate side with regards to the ability of a peacetime veteran in competition with a wartime veteran. My intent here is to explain that. As a veteran service officer, I have the ability to service connect veterans for even some very minimal disabilities. It could be a bunion, minor knee injury, or it could be anything and basically be compensable. We have veterans out there right now who have spent three, four, and even five tours in Iraq and Afghanistan. Some of them have come home completely unscathed, completely healthy. Yet, they stood that mark four and five times in harm's way. As you see in this bill, you may have a peacetime veteran who I have service connected to a compensable rate who actually gets 5 more points than that veteran who spent four and five tours. That was my reason for making the request on the senate side.

Rep. Gary Paur: Could you go over those changes again? That wartime one I understand but what is the other one, please?

Ron Otto: It would be in Line 14 where they struck through 2 and inserted 1. That goes back to the actual definition of wartime veteran.

Rep. Karen Karls: You are saying you did testify to this fact on the senate side?

Ron Otto: Yes, I did.

Rep. Karen Karls: Could we possibly just get a copy of that?

Chairman Bette Grande: I will request that of the senate chair.

Rep. Lonny Winrich: If you have a peacetime veteran who somehow by your classification has a service connected disability, they would be considered a disabled veteran and preferred over a wartime veteran. Is that correct?

Ron Otto: In cases they would get more points.

Rep. Lonny Winrich: If we take the overstrike out and put the wartime veteran thing back in there, then the peacetime veteran is completely disqualified, is he not?

Ron Otto: Yes, as he is now.

Rep. Lonny Winrich: And gets no extra points?

Ron Otto: That would be correct. It would be existing law.

Rep. Lonny Winrich: Wouldn't it be possible or perhaps fair to incorporate that into the classification scheme that Commissioner Wangen was talking about where the disabled veteran gets 10 points and the veteran who is not disabled gets 5 points and somewhere the peacetime veteran fits in who is not a wartime veteran?

Ron Otto: That is correct. There is a middle ground here I do believe. In my senate testimony you will see that there is. There is possibly a way of awarding points to a wartime veteran in addition to what is in here.

Chairman Bette Grande: Did you happen to have a copy of your senate testimony with you today?

Ron Otto: I don't. I'll be happy to go get it for you and deliver it here to your clerk.

Chairman Bette Grande: I can check with the senator.

The hearing was closed.

Attachment 4 was handed out at a later time.

Some discussion followed later.

Rep. Glen Froseth: On the refusal to give preference, how many cases of appeal have you had that the veteran hasn't been given a proper preference?

Lonnie Wangen: I have been on the job since April 1, 2008 and since then I have had two cases that had the merit to go to an appeal because timing and what not and confusion of not getting them to me in time with certified mail. That is why we are clarifying here. One of the cases did not make it. Another one did go to the hearings but also because of the timing that wasn't spelled out like we are spelling out now, it got kicked out before it was heard. Looking back into last year I probably had less than 10 or 12 applications for veterans' preference appeal. I look at it as what is going to happen when we go to an appeal hearing with the administrative appeals court and what they are going to do to kick it

out. I go through and make sure all the steps were done properly and if they weren't I will write them a letter saying I can't go forward with an appeal on this or if I find that the process was done properly then I am going to send them a letter that yes, veterans' preference was done properly.

Rep. Glen Froseth: Really it is not very often?

Lonnie Wangen: Not that often and that is one thing with changing this bill, it is going to make it a lot easier so it won't happen as much at all because everyone should understand how it applies. They go to the code, read it, and it is step by step.

The following is in regard to SB 2211.

Rep. Vicky Steiner: I am curious on that last bill about the assistant to the presidents or the assistants. That already is in law. You don't have veteran preference on assistant. Why would the veterans' groups or why would your office not say that should have veteran preference?

Lonnie Wangen: That bill did not come through the coordinating council and the veterans themselves so I am not quite sure why there was support shown on that. They did not object to it because in reality if you look at the way the laws have been applied, coaches normally are teachers in a lot of situations so it hasn't been an issue for us. Higher education has always kind of had that priority where they are exempt from the veterans' preference. Our only concern was the assistant going to assistants with an s, what does that mean? Not clarifying the assistants part, that was the only concern. Then they would have had opposition if that wasn't clarified.

Chairman Bette Grande: The university system will give us some good definitions to work from. We will hold on any work on that particular bill until we have had an opportunity to work with them on it.

Discussion ended.

2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2279
March 17, 2011
15641

Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to veterans' preference

Minutes:

Chairman Bette Grande opened the discussion on SB 2279. Please make sure you read Mr. Otto's testimony that was presented on the senate side. **Attachment 1.**

Rep. Lisa Meier: I think Ron has some really good points. His point on if you have a veteran that has actually served overseas, why shouldn't they have a little more preference for veterans' preference. I totally agree with his thoughts.

Rep. Bill Amerman: I don't know if I have a lot of conflict either way. When you sign up to serve as John Jacobsen keeps reminding us, and you take those and you take one step forward, it might be peacetime and it might not be, you don't have a choice if you go to war. You don't make the war. Now you might end up in a conflict. You might not. You are still signing that blank check. I kind of like amending out the wartime part because they all take their chances but if they go to war, they have nothing to say about it.

Chairman Bette Grande: One of the things I want to have clarified to me because I have heard two different answers to this is in the term veteran. Somebody told me national guard is not called up, not the current national guard guys, but 1975 to about 2001, are they a veteran?

Ron Otto, Morton and Oliver County Veteran Service Officer, appeared. The answer to this question is if they have been federalized, if they were called to active duty for any period of time whether that be peacetime or wartime they obtain veteran status. Back in my day when I was drafted there was a time period when the national guard's mission was basically domestic. That was after the Korean conflict that their mission became basically domestic. I believe some of them were nationalized in 1960 or 1961 for the Berlin airlift. Those that were mobilized are veterans. You could have spent 30 years in the national guard during a peacetime period and you will not obtain veteran status.

Chairman Bette Grande: That rubs me a little wrong. I have to deal with that first before I am ready to vote on this because to me the national guard is my militia. They are on call 24/7 whether they are considered full time or not because they are at the beckon call of the

general or the commander in chief. That is exactly what Rep. Amerman was describing. Yet they are not veterans per say. They can qualify for the cemetery and that is it if you were not called up. Right?

Ron Otto: That is correct. They are qualified for state benefits and our cemetery is a state veteran cemetery.

Rep. Karen Karls: Now we have used three terms—mobilized, federalized, nationalized. Do they all mean the same thing?

Chairman Bette Grande: No. Now you are starting to see my confusion on a little bit of this. I don't want to feel as though I am cutting others out but yet I understand the idea of having the word wartime in there.

Rep. Bill Amerman: I could be wrong. I am not sure what the state can do to change the situation you described with the guard. I don't know if that is a state issue or a federal issue as far as veterans go.

Chairman Bette Grande: We do have a definition of veteran in code. You should have gotten that handout. We are looking at 37-02-40. It talks about veteran, wartime veteran, periods of service of war and then it goes into the descriptions. Let us continue to think this one through. I don't want to act on it today.

Discussion ended.

2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2279
March 24 2011
15946

Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to veterans' preference

Minutes:

Vice Chairman Randy Boehning opened the discussion on SB 2279.

Rep. Glen Froseth: This is the bill that has that same section that we just passed on Page 6. Lines 14-22 are exactly the same section. We should either make it similar or strike it out completely. Well, it is not quite exactly the same.

Vice Chairman Randy Boehning: It is the same section. They just added some more language in that.

Rep. Lonny Winrich: As I read this, this reference to that section of law adds administrative head of a department required by law to the list. Someone like the head of health and human services or something like that would also be in this exempt category. It doesn't include the exemptions for the board institutions that we just passed in the other bill.

Vice Chairman Randy Boehning: No, it doesn't.

Rep. Lonny Winrich: I think we need both of them. They are different additions to that section.

Rep. Glen Froseth: I guess the only concern would be that if the other bill failed on the floor, should we mirror the language in both of them? I don't think the other one will fail.

Vice Chairman Randy Boehning: I don't think it will fail. I am a little more concerned about that last sentence in Subsection 4, Page 6. On Page 2, Line 13, the definition of veteran, I am wondering if we need to take the overstrike off and put wartime back in again. We are broadening it quite a bit.

Rep. Lisa Meier: I would actually want to do that as well. Ron Otto I know had testified that he felt strongly about this issue. I think in Line 13 to remove the overstrike on wartime and then on Line 14 to actually remove the overstrike on two as well.

Vice Chairman Randy Boehning: Then we have to remove overstrike one?

Rep. Lisa Meier: Correct.

Vice Chairman Randy Boehning: Is there a second?

Rep. Gary Paur: Second.

A voice vote was taken to adopt the amendment. Motion carried.

Vice Chairman Randy Boehning: When I was talking to Rep. Grande this morning, she was wondering if we shouldn't study this issue as well. That definition of veteran is quite broad when you use just the term veteran versus the definitions that are in code for wartime veteran which basically has the World War I, II, Korean, Vietnam, and then there is a stretch in there. Then it starts again in 2001. We have a big stretch in there where there are a lot of veterans out there but there are no wartime veterans essentially.

Rep. Lisa Meier made a motion to do a study on veterans' preference.

Rep. Karen Rohr seconded the motion.

Rep. Bill Amerman: Just a point of order. We had a motion for the one. Do we have to pull that or further amend?

Vice Chairman Randy Boehning: I think we can do another amendment to that.

A voice vote was taken. Motion carried.

Vice Chairman Randy Boehning: Is there any other discussion on this bill? Does anybody see anything else that we need to take a look at? There is a lot of new language in here.

Rep. Gary Paur: What I have written down is Lonnie said we are just moving around sections. I was wondering what the new language was?

Vice Chairman Randy Boehning: I just wanted to make sure. We have material moved around. Is there anything else we need to look at?

Rep. Karen Rohr moved a Do pass as amended.

Rep. Karen Karls seconded the motion.

DO PASS AS AMENDED, 10 YEAS, 1 NAY, 2 ABSENT. Rep. Karen Karls is the carrier of this bill.

Date: 3-24-11
Roll Call Vote #: -1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2279

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 Meier Seconded By Paur

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 adopt
amendment
motion
carried*

Date: 3-24-11
 Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2279

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 Meier Seconded By Rohr

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
 table study on
 Veterans
 preference
 motion
 carried*

March 24, 2011

VR
3/24/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2279

Page 1, line 2, after "preference" insert "; and to provide for a legislative management study"

Page 2, line 13, remove the overstrike over "wartime"

Page 2, line 14, remove the overstrike over "2"

Page 2, line 14, remove "1"

Page 9, after line 17, insert:

"SECTION 5. LEGISLATIVE MANAGEMENT VETERANS' PREFERENCE LAWS STUDY. During the 2011-12 interim, the legislative management shall consider studying the North Dakota veterans' preference laws. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

Date: 3-24-11
 Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2279

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 Rohr Seconded By Karls

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) 10 No 1

Absent 2

Floor Assignment Karls

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

REPORT OF STANDING COMMITTEE

SB 2279, as engrossed: Government and Veterans Affairs Committee (Rep. Grande, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (10 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2279 was placed on the Sixth order on the calendar.

Page 1, line 2, after "preference" insert "; and to provide for a legislative management study"

Page 2, line 13, remove the overstrike over "wartime"

Page 2, line 14, remove the overstrike over "2"

Page 2, line 14, remove "1"

Page 9, after line 17, insert:

"SECTION 5. LEGISLATIVE MANAGEMENT VETERANS' PREFERENCE LAWS STUDY. During the 2011-12 interim, the legislative management shall consider studying the North Dakota veterans' preference laws. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

2011 TESTIMONY

SB 2279



SB 2279 – Veterans' Preference

Good Morning Mr. Chairman & Members of the Committee. I am Gary A. Lee
Senator from District 22.

SB 2279, is brought forward on behalf of the veterans organizations. As part
of the title indicates, it relates to the Veterans Preference Sections of ND
Code.

Much of current law regarding this topic seems to be based on the Veterans
Preference Act of 1944. At the end of WWII President Roosevelt wrote, "... it
is absolutely impossible to take millions of our young men out of their
normal pursuits for the purpose of fighting to preserve the Nation, and then
expect them to resume their normal activities without having any special
consideration shown them." Thus, the Preference Act would help ensure that
veterans would obtain or regain an economic position they otherwise would
have attained had they not served in the military.



The changes and updates to the ND Veterans Preference laws in this Bill are
designed to clarify verbiage of current law. New language is written to
separate the "Competitive Personnel System" and the "Non Competitive
Personnel System." The Bill intends to offer a clear explanation of how
Veterans Preference is applied to each of those Systems. It too, outlines in
detail the requirements when applying for Veterans preference. The appeal
process is also re-drafted to be clearer.

As I understand the Bill, it is only intended to bring clarity to a complex set
of rules. It doesn't expand or extend benefit opportunity.

Mr. Chairman, Veterans Representatives can best answer questions or offer
more detailed explanation. But I will stand for questions.



NORTH DAKOTA VETERANS COORDINATING COUNCIL

My name is John L. Jacobsen. I am the Chairman of the Legislative Committee of the North Dakota Veterans Coordinating Council. I am also a member of the American Legion and the Veterans of Foreign Wars.

I served in the North Dakota National Guard and the US Army Reserve for a total of 30 years. I retired in 1995 as a Colonel. I served on Active Duty in 1991 during Operation Desert Shield/Desert Storm in the Persian Gulf, stationed in the United Arab Emirates.

The Coordinating Council is made up of 15 members, 3 from each of the five Veterans Organizations in North Dakota:

- American Legion
- AMVETS
- Disabled American Veterans
- Veterans of Foreign Wars
- Vietnam Veterans of America

It is the policy of the Coordinating Council to support legislation that will benefit the welfare of the members of the Armed Forces. The committee **MUST** concur totally, that is all 15 members must agree on the legislation to be supported or else it does not get the support.

In this case, I have been instructed to recommend to this legislative committee that a "DO PASS" is supported by the Veterans Coordinating Council.

**TESTIMONY ON SB 2279
9:30 FORT UNION ROOM
GOVERNMENT & VETERANS AFFAIRS COMMITTEE
LYLE SCHUCHARD, CHAIRPERSON
ND AMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS
January 28, 2011**

GOOD MORNING CHAIRMAN DEVER AND COMMITTEE MEMBERS. I AM RON OTTO SECRETARY OF THE ACOVA. I AM HERE THIS MORNING REPRESENTING LYLE SCHUCHARD CHAIRMAN OF THE ADMINISTRATIVE COMMITTEE ON VETERAN'S AFFAIRS. DUE TO MEDICAL REASONS CHAIRMAN SCHUCHARD IS UNABLE TO ATTEND THIS MORNING.

THE ADMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS IS A 15 MEMBER COMMITTEE APPOINTED BY THE GOVERNOR FROM NAMES SUBMITTED BY EACH OF THE STATE'S FIVE MAJOR VETERANS ORGANIZATAIONS. THE FIVE ARE THE AMERICAN LEGION, DISABLED AMERICAN VETERANS, (DAV), VETERANS OF FOREIGN WARS (VFW), VIETNAM VETERANS OF AMERICA (VVA), AND THE AMERICAN VETERANS (AMVETS). WE ARE RESPONSIBLE FOR OVERSEEING THE OPERATIONS OF THE NORTH DAKOTA DEPARTMENT OF VETERANS AFFAIRS.

SB 2279 PROPOSES TO AMEND AND REENACT SECTIONS OF THE ND CENTURY CODE RELATING TO VETERANS PREFERENCE. PROPOSED CHANGES ARE MEANT TO SIMPLIFY AND REINFORCE VETERANS PREFERENCE IN ND.

THE ADMINISTRATIVE COMMITTEE ON VETERANS AFFAIRS HAS VOTED UNANIMOUSLY TO APROVE THIS BILL.

THEREFORE, I ASK THAT THE COMIITTEE GIVE FAVORABLE CONSIDERATION TO PASSING SB 2279.

I WILL TRY TO ANSWER ANY QUESTIONS YOU MAY HAVE AT THIS TIME.

THANK YOU FOR ALLOWING ME TO TESTIFY THIS MORNING.



Morton / Oliver Veterans Service

nd Ave. NW
Mandan, ND 58554

Janice Braun, Secretary

Ronald D. Otto
Service Officer

701-667-3365
Fax 701-667-3284

email:rotto@mortonnd.org

RE: SB 2279

Government & Veterans Affairs
Senator Dick Dever, Chairman

Chairman Dever and members of the Committee:

Senate Bill 2279 is a revamp of our State's veteran preference law. I take issue with page 2, line 13 and 14.

We are currently fighting two wars and have been for a long time. The affect of this portion of this bill may give more preference to veterans who have never served in conflict.

Example: We could have a non-conflict veteran who has never left the confines of the state and who may make an application for a minor service connected disability and receive it (e.g. bunions, tinnitus, hemorrhoids). We have another veteran who serves 4 tours in Iraq and Afghanistan and never is wounded, comes out clean and safe just like we want them all to and both make an application for the same government job. The veteran who stayed in the state would get 10 preference points and the war veteran would only get 5.

This possibility is wrong and needs to be eliminated by amending this bill at page 2, line 13 and 14 to keep "wartime" and subsection "2" in the law. That's how it is now and needs to continue. We have a tremendous amount of young war veterans who are in the job market right now. Let's protect their benefit.

Ronald D. Otto

1/28/2011

SB 2279

Testimony of Lonnie Wangen Commissioner of Veterans Affairs

Chairman Dever and Committee members,

SB 2279 is a cooperative effort by members of the ND State Human Resources office, Job Service North Dakota, and ND Department of Veterans Affairs with the assistance of the Attorney Generals office to update, organize and clarify the Veterans Employment Preference laws. The proposed changes have been unanimously agreed upon by the members of these organizations and have been unanimously approved by the Administrative Committee on Veterans Affairs and the North Dakota Veterans Coordinating Council.

I will go over the section by section analysis and the proposed amendments attached.

Thank you.

SECTION BY SECTION ANALYSIS OF SENATE BILL NO. 2279

SECTION 1. AMENDMENT. Section 37-19.1-01 of the North Dakota Century Code is amended as follows:

37-19.1-01. Definitions.

Analysis.

Section 37-19.1-01 amends the definition of "agency" or "governmental agency" and defines "competitive personnel system."

1. Subsection 1. "Agency" or "governmental agency" is amended to apply directly to the state and all political subdivisions, including entities of each of those listed in the definition.
2. Subsection 3. "Competitive personnel system" is defined as a specific personnel system used for rating applicants for a position. Senate Bill No. 2279 acknowledges competitive personnel systems are sometimes used and now more clearly distinguishes between positions that are filled using a competitive personnel system and those that are not.
3. Subsection 8. "Veteran" is amended to remove the "wartime" requirement, as defined in N.D.C.C. § 37-01-40, that the individual must have "served in the active military forces during a period of armed conflict or ... received the armed forces expeditionary or other campaign service medal during an emergency condition...."
4. "Personnel system" was removed and redefined as "competitive personnel system."

SECTION 2. AMENDMENT. Section 37-19.1-02 of the North Dakota Century Code is amended as follows:

37-19.1-02. Public employment preference to veterans – Residency requirements.

Analysis.

1. Subsection 1 ensures that veterans are entitled to preference in the recruitment and selection processes employed by governmental agencies. To qualify, a veteran must be a United States citizen at the time of application and fit the definition of "veteran" in N.D.C.C. § 37-19.1-01(8). This subsection is amended to include the specific documentation a veteran claiming preference must provide to qualify for veterans' preference, see subdivisions 1(a) through 1(d).

2. Subsection 2 establishes standards that must be applied when a veteran applies for a position that is not being filled with a competitive personnel system. If the veteran possesses the qualifications for the position applied for, subject to the qualifications listed in subsection 2, the veteran shall be employed. A disabled veteran is given preference superior to that given other veterans.

Subsection 2, subdivisions a through c, clarify the order of precedence for employment when: two or more disabled veterans are qualified, multiple veterans are qualified and no disabled veterans are qualified, and nonveterans and veterans are qualified for the position for which all have applied.

Subsection 2 states that justifiable cause must be established when denying a veteran or disabled veteran employment when a competitive personnel system is not used to fill the position.

3. Subsection 3 establishes standards that must be applied when a veteran applies for a position that is being filled with a competitive personnel system. If a veteran is found to be qualified, the employing authority must then follow subdivisions a through d.

a. Section 3, subdivision a, states that no distinction or discrimination will be made because the applicant may be a veteran;

b. Section 3, subdivision b, establishes the scoring system to be applied if an applicant qualifies as a veteran by definition in accordance with N.D.C.C. § 37-19.1-01(8) and provides proper documentation in accordance with subsection 1.

c. Section 3, subdivision c, states that the employing authority shall designate a prescribed number of candidates for interviews and rank all candidates by the applicant's final score.

d. Section 3, subdivision d, establishes that the employing authority shall fill the position from the group of eligible individuals.

This subsection clarifies that under a competitive personnel system, an individual qualifying for veterans' preference is not entitled to employment, however the preference assists the applicant in being in a position to be interviewed and considered for employment through implementation of the scoring system in subdivision b.

Justifiable cause is not necessary when denying a veteran or disabled veteran when a competitive personnel system is used to fill the position.

4. Subsection 4 states when veterans' preference does not apply. This section is amended to exclude the following position: "administrative head of a department required by law." This subsection is also amended to state that if an exempt position is advertised, the advertisement must specify that veterans' preference does not apply.

5. Subsection 5 was intended to clarify that veterans' preference is not to be applied in employment situations where an individual is a current employee of any state or political subdivision and that individual is applying for a different employment position within the state or the same political subdivision.

We are aware of concerns that the current language in the Bill does clearly state the intent and there is a need to amend or revise the language of Subsection 5. We ask the Committee for permission to allow us time, one or two days, to rewrite this subsection to more clearly state our intent.

SECTION 2. AMENDMENT. Section 37-19.1-03 of the North Dakota Century Code is amended as follows:

37-19.1-03. Preference to be granted to veterans' spouses.

Analysis.

1. Subsection 1 specifies that this preference only applies for employment preference and not preference in appointment.

2. Subsection 2 adds to the definition of a disabled veteran one "who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs." This clarification is necessary because it is

possible for a veteran to have less than a one hundred percent service-connected disability, but be one hundred percent unemployable due to the specific type of disability. In a situation like this, the disabled veteran is rated with an extra-schedular rating from the department of veterans' affairs.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2279

Page 7, line 26, overstrike "delivered" and insert immediately thereafter "mailed"

Page 7, line 28, remove the overstrike over "~~mailed~~" and remove "delivered"

Mr. Chairman

Distinguished Members

My name is James Martel I am a disabled veteran and retired from the USAF after twenty-three years of distinguished service at the rank of MSgt.

I am currently employed by the state working with the Department of Mineral Resources (and for the record) I am on leave for this hearing and the views expressed during my statement are solely my own.

I am here to express my disapproval, concerns and opinions about proposed changes in the current veterans' preference law.

It is my belief that the changes requested in SB 2279 do nothing to enhance the law. In fact the requested changes essentially degrade it.

I have three points and I will provide at least one comment for each point.

1. The proposal to exempt the head of a department from veteran's preference.
 - a. This change removes the additional boost this law is designed to give a disabled veteran over non-disabled and may open the door to allow a non-veteran to become the Commissioner of Veteran Affairs.
2. The proposal to remove the benefit from an individual currently employed by a state agency.

- a. The wording on this paragraph discriminates against a veteran because it negates the law. As an example let us say I have been employed by the state and have never used my veteran's preference for employment and an opportunity presents itself and I would like to apply for that position. By being a current employee, I cannot use my benefit while other veterans can.
3. My final point is the proposal to change the ability of a spouse to use my benefit by requiring me to be 100 percent as established by the Veterans Administration this action will take a benefit from individuals who may need it. Let's say I am fifty percent disabled as established by the VA and I get hurt and cannot work under the current law my spouse may use the benefit with the proposal my spouse may not use my benefit

Mr. Chairman and members I urge you to vote DO NOT PASS

Thank you

Attachment 1
2279

TESTIMONY ON SB 2279
2:00PM FORT UNION ROOM
GOVERNMENT & VETERANS AFFAIRS COMMITTEE
LYLE SCHUCHARD, CHAIRPERSON
ND AMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS
March 10, 2011

GOOD MORNING MADAM CHAIRMAN GRANDE AND COMMITTEE MEMBERS. I AM LYLE SCHUCHARD CHAIRMAN OF THE ADMINISTRATIVE COMMITTEE ON VETEANS AFFAIRS.

THE ADMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS IS A 15 MEMBER COMMITTEE APPOINTED BY THE GOVERNOR FROM NAMES SUBMITTED BY EACH OF THE STATE'S FIVE MAJOR VETERANS ORGANIZATAIONS. THE FIVE ARE THE AMERICAN LEGION, DISABLED AMERICAN VETERANS, (DAV), VETERANS OF FOREIGN WARS (VFW), VIETNAM VETERANS OF AMERICA (VVA), AND THE AMERICAN VETERANS (AMVETS). WE ARE RESPONSIBLE FOR OVERSEEING THE OPERATIONS OF THE NORTH DAKOTA DEPARTMENT OF VETERANS AFFAIRS.

SB 2279 PROPOSES TO AMEND AND REENACT SECTIONS OF THE ND CENTURY CODE RELATING TO VETERANS PREFERENCE. PROPOSED CHANGES ARE MEANT TO SIMPLIFY AND REINFORCE VETERANS PREFERENCE IN ND.

THE ADMINISTRATIVE COMMITTEE ON VETERANS AFFAIRS HAS VOTED UNANIMOUSLY TO APROVE THIS BILL.

THEREFORE, I ASK THAT THE COMITTEE GIVE FAVORABLE CONSIDERATION TO PASSING SB 2279.

I WILL TRY TO ANSWER ANY QUESTIONS YOU MAY HAVE AT THIS TIME.

THANK YOU FOR ALLOWING ME TO TESTIFY THIS MORNING.

March 10, 2011

SB 2279

Testimony of Lonnie Wangen Commissioner of Veterans Affairs

Madam Chairman Grande and Committee members,

SB 2279 is a cooperative effort by members of the ND State Human Resources office, Job Service North Dakota, and the ND Department of Veterans Affairs with the assistance of the Attorney Generals office to update, organize and clarify the Veterans Employment Preference laws. The proposed changes have been unanimously agreed upon by the members of these organizations and have been unanimously approved by the Administrative Committee on Veterans Affairs and the North Dakota Veterans Coordinating Council.

I will go over the section by section analysis and answer any questions you may have.

Thank you.

SECTION BY SECTION ANALYSIS OF SENATE BILL NO. 2279

SECTION 1. AMENDMENT. Section 37-19.1-01 of the North Dakota Century Code is amended as follows:

37-19.1-01. Definitions.

Analysis.

Section 37-19.1-01 amends the definition of "agency" or "governmental agency" and defines "competitive personnel system."

1. Subsection 1. "Agency" or "governmental agency" is amended to apply directly to the state and all political subdivisions, including entities of each of those listed in the definition.
2. Subsection 3. "Competitive personnel system" is defined as a specific personnel system used for rating applicants for a position. Senate Bill No. 2279 acknowledges competitive personnel systems are sometimes used and now more clearly distinguishes between positions that are filled using a competitive personnel system and those that are not.
3. "Personnel system" was removed and redefined as "competitive personnel system."
4. Subsection 8. "Veteran" is amended to remove the "wartime" requirement, as defined in N.D.C.C. § 37-01-40, that the individual must have "served in the active military forces during a period of armed conflict or ... received the armed forces expeditionary or other campaign service medal during an emergency condition...."

SECTION 2. AMENDMENT. Section 37-19.1-02 of the North Dakota Century Code is amended as follows:

37-19.1-02. Public employment preference to veterans – Residency requirements.

Analysis.

1. Subsection 1 ensures that veterans are entitled to preference in the recruitment and selection processes employed by governmental agencies. To qualify, a veteran must be a United States citizen at the time of application and fit the definition of “veteran” in N.D.C.C. § 37-19.1-01(8). This subsection is amended to include the specific documentation a veteran claiming preference must provide to qualify for veterans’ preference, see subdivisions 1(a) through 1(d).

2. Subsection 2 establishes standards that must be applied when a veteran applies for a position that is **not** being filled with a competitive personnel system. If the veteran possesses the qualifications for the position applied for, subject to the qualifications listed in subsection 2, the veteran shall be employed. A disabled veteran is given preference superior to that given other veterans.

Subsection 2, subdivisions a through c, clarify the order of precedence for employment when: two or more disabled veterans are qualified, multiple veterans are qualified and no disabled veterans are qualified, and nonveterans and veterans are qualified for the position for which all have applied.

Subsection 2 states that justifiable cause must be established when denying a veteran or disabled veteran employment when a competitive personnel system is not used to fill the position.

3. Subsection 3 establishes standards that must be applied when a veteran applies for a position that **is** being filled with a competitive personnel system. If a

veteran is found to be qualified, the employing authority must then follow subdivisions a through d.

- a. Section 3, subdivision a, states that no distinction or discrimination will be made because the applicant may be a veteran;
- b. Section 3, subdivision b, establishes the scoring system to be applied if an applicant qualifies as a veteran by definition in accordance with N.D.C.C. § 37-19.1-01(8) and provides proper documentation in accordance with subsection 1.
- c. Section 3, subdivision c, states that the employing authority shall designate a prescribed number of candidates for interviews and rank all candidates by the applicant's final score.
- d. Section 3, subdivision d, establishes that the employing authority shall fill the position from the group of eligible individuals.

This subsection clarifies that under a competitive personnel system, an individual qualifying for veterans' preference is not entitled to employment; however the preference assists the applicant in being in a position to be interviewed and considered for employment through implementation of the scoring system in subdivision b.

Justifiable cause is not necessary when denying a veteran or disabled veteran when a competitive personnel system is used to fill the position.

4. Subsection 4 states when veterans' preference does not apply. This section is amended to exclude the following position: "administrative head of a department required by law." This subsection is also amended to state that if an

exempt position is advertised, the advertisement must specify that veterans' preference does not apply.

5. Subsection 5 was intended to clarify that veterans' preference is not to be applied in employment situations where an individual is a current employee of any state or political subdivision and that individual is applying for a different employment position within the state or the same political subdivision.

SECTION 3. AMENDMENT. Section 37-19.1-03 of the North Dakota Century Code is amended as follows:

37-19.1-03. Preference to be granted to veterans' spouses.

Analysis.

1. Subsection 1 specifies that this preference only applies for employment preference and not preference in appointment.

2. Subsection 2 adds to the definition of a disabled veteran one "who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs." This clarification is necessary because it is possible for a veteran to have less than a one hundred percent service-connected disability, but be one hundred percent unemployable due to the specific type of disability. In a situation like this, the disabled veteran is rated with an extra-schedular rating from the department of veterans' affairs.

SECTION 4. AMENDMENT. Section 37-19.1-04 of the North Dakota Century Code is amended as follows:

37-19.1-04. Refusal to give preference-retaliatory action or removal-Remedies-Procedures.

This section clarifies the appeals process by spelling out "Calendar" days and mailing "Certified Mail" to Commissioner and Employing agency.

TESTIMONY ON SB 2279 - ND VETERANS COORDINATING
COUNCIL.

A veteran is an individual that has signed a blank check in the amount of and up to including his or her life for their country. Good morning, my name is John L. Jacobsen. I am the Chairman of the Legislative Committee of the North Dakota Veterans Coordinating Council. I am also a member of the American Legion and the Veterans of Foreign Wars.

I served in the North Dakota National Guard and the US Army Reserve for a total of 30 years. I retired in 1995 as a Colonel. I was mobilized for Active Duty in 1991 during Operation Desert Shield/Desert Storm. Like all mobilizations, I left my home and family to serve in the Persian Gulf, stationed in the United Arab Emirates.

The Coordinating Council is made up of 15 members, 3 from each of the five Veterans Organizations in North Dakota:

- American Legion
- AMVETS
- Disabled American Veterans
- Veterans of Foreign Wars
- Vietnam Veterans of America

It is the policy of the Coordinating Council to support legislation that will benefit the welfare of the members of the Armed Forces. The committee MUST concur totally, that is all 15 members must agree on the legislation to be supported or else it does not get the support.

In this case, I have been instructed to recommend to this legislative committee that a "DO PASS" on SB 2279 is supported by the membership of the Veterans Coordinating Council.

for SB 2279

Attachment 4
2279

37-01-40. Veteran and wartime veteran defined - Uniform service dates for wartime veterans.

1. A "veteran" is an individual who has served on continuous federalized active military duty for one hundred eighty days or the full period for which the individual was called or ordered to active military duty for reasons other than training, and who was discharged or released under other than dishonorable conditions. A discharge reflecting "expiration of term of service" or "completion of required service" or words to that effect qualifies the shorter term of service as making the individual a veteran.
2. A "wartime veteran" is an individual who served in the active military forces, during a period of armed conflict or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released under other than dishonorable conditions. "Wartime veteran" also includes an individual who died in the line of duty in the active military forces, as determined by the armed forces.
3. Period of service dates for a wartime veteran begins with the date of any declaration of war by the Congress of the United States or presidential proclamation beginning hostilities or the beginning of an emergency condition recognized by the issuance of a presidential proclamation or a presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to presidential executive order and ending on a date prescribed by presidential proclamation or concurrent resolution of the Congress of the United States and dates determined by the United States department of defense.
4. Current uniform period of service dates for periods of armed conflict include:
 - a. The period beginning December 7, 1941, through December 31, 1946, known as world war II;
 - b. The period beginning June 27, 1950, through January 31, 1955, known as the Korean war;
 - c. The period beginning August 5, 1964, through May 7, 1975, known as the Vietnam war;
 - d. The period beginning August 2, 1990, through January 2, 1992, known as the gulf war; and
 - e. The period beginning September 11, 2001, and ending on a date prescribed by presidential proclamation or by Congress as the last day of operation Iraqi freedom or operation enduring freedom, whichever occurs later.
5. The department of veterans' affairs shall maintain a list of all period of service dates for emergency conditions in which the armed forces expeditionary medal has been awarded.

Attachment 1
2279

Morton / Oliver Veterans Service



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Janice Braun, Secretary

RE: SB 2279

Government & Veterans Affairs
Senator Dick Dever, Chairman

Chairman Dever and members of the Committee:

Senate Bill 2279 is a revamp of our State's veteran preference law. I take issue with page 2, line 13 and 14.

We are currently fighting two wars and have been for a long time. The affect of this portion of this bill may give more preference to veterans who have never served in conflict.

Example: We could have a non-conflict veteran who has never left the confines of the state and who may make an application for a minor service connected disability and receive it (e.g. bunions, tinnitus, hemorrhoids). We have another veteran who serves 4 tours in Iraq and Afghanistan and never is wounded, comes out clean and safe just like we want them all to and both make an application for the same government job. The veteran who stayed in the state would get 10 preference points and the war veteran would only get 5.

This possibility is wrong and needs to be eliminated by amending this bill at page 2, line 13 and 14 to keep "wartime" and subsection "2" in the law. That's how it is now and needs to continue. We have a tremendous amount of young war veterans who are in the job market right now. Let's protect their benefit.

Ronald D. Otto