

**2015 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2365**

# 2015 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee

Missouri River Room, State Capitol

SB 2365

2/12/2015

Job # 23703 & 23711

Subcommittee

Conference Committee

Committee Clerk Signature



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

A BILL for an Act to amend and reenact section 44-04-09 of the North Dakota Century Code, relating to nepotism.

### Minutes:

No Attachments

**Chairman Dever:** Opened the hearing on SB 2365.

**Senator Judy Lee, District 13:** Testified as a sponsor and in support of the bill. It was brought to my attention by the administrator of the veteran's home because obviously that is in the small community of Lisbon where it is difficult to sometimes find staff. His wife is a nurse as well as his daughter being a healthcare provider. He was interested to know if there way that the nepotism law could be looked at so that it might be possible to have the opportunity to hire someone in the family. I think it is terribly important for them to have some additional protections. Not suggesting anyone is doing anything inappropriate now but to make sure that it is all done in an appropriate way reporting to someone else not considered inappropriately for perks or benefits etc. Please understand that is something we all want to avoid as well. The question is whether there is a process through which it might be possible in circumstances where it is hard to recruit some of these professionals who might be needed. I am sorry I do not have the perfect solution for you. I am just bringing a question to you and hoping that we might be able to figure out a way to make that happen.

**(2:27) Senator Nelson:** How are you defining "critical"?

**Senator Lee:** I guess I cannot tell you that. That is the challenging part. It will vary from one place to another. It will depend and maybe you could look at healthcare areas.

**Chairman Dever:** Would you say that in this bill that would that would be determined by the governing body?

**Senator Lee:** I am thinking if the governing board for these places would have some strict rules about how it could be managed and with an appeal process for the opportunity for other employees if they were concerned about what they perceived as favors or something

that. I think we need to anticipate that, even though I am not expecting that there might be examples of abuse those things might happen. There needs to be room for a whistle blower but not be punished for that.

**Chairman Dever:** No one else was present to testify on the bill. Closed the hearing on SB 2365.

**Senator Nelson:** I am concerned about how broad this is.

**Chairman Dever:** I know in this particular circumstance the director's wife is a nurse. Every facility needs nurses and it is a small community. There is another nursing home in Lisbon and there is also a hospital.

**Senator Nelson:** To achieve the need that she has would it help in line 23, after need, to put in healthcare or something like that rather than making it wide open to everything.

**Senator Davison:** So we have determined that there is no way for that person to be hired in that case of the veteran's home based on the current law?

**Chairman Dever:** It is my understanding that she was employed by the facility and there were some concerns and that they discontinued the employment because of the nepotism law.

**Senator Flakoll:** We find value in bundling employment in education because I think it help in our recruitment effort sometime. That might be partially related to the issue. When they can put together as an entity packages where they have positions for both spouses, it can be a good recruiting tool to lure people to a community or a state agency.

**Chairman Dever:** I think the issue would be whether or not one was in a supervisory roll over the other on.

**Senator Flakoll:** This deals with more than direct reports right?

**Senator Davison:** I think that the bundling concept is important and maybe we should try and rework the language.

**Chairman Dever:** I should have looked up section 44 and looked at what the title of that is. As I read this, it says a state official or state employee and teachers might come under some different section.

**Senator Davison:** I was thinking about the advantages of recruiting people to small towns that have nursing homes and you are trying to get an administrator and they are an LPN or CNA or a nurse. Getting those people to those towns is important. How do you allow for that to happen in a small community? Does a situation like this, when it is brought up, does that come to your level at the state?

**Ken Purdy, Director, HR Management Services Division, OMB:** There have been instances in the past where it has come to light that a spouse or a child of an official has been working for an agency and in the couple of instances that I am familiar with, the OMB director has intervened talked directly to that official and informed them that they cannot do that. I am thinking of about three instances in the past few years. There is the provision in item C of a temporary work arrangement necessary to meet a critical or urgent need. For an ongoing there is significant risk. The bundling discussion can occur in a larger organization. The veteran's home has about 140 employees. That is pretty close working relationship.

**Chairman Dever:** What does this area of the code pertain to?

**Ken Purdy:** I am not sure.

**Chairman Dever:** Apparently this law was put into effect in the 1999 session because it grandfathers anyone before Aug 1st 1999?

**Ken Purdy:** That would seem logical.

**Senator Davison:** In your opinion, is this opening a can of worms?

**Ken Purdy:** You have heard some good arguments in favor of it and in some instances it can work, but there is significant risk in it.

**Senator Cook:** The key word is perceived. There are reasons you have nepotism laws. There doesn't have to be any favoritism offered, but if there is a perception of favoritism, just that perception can create bad moral in a workplace. I think nepotism policies are important and it is not just to make sure there is not favoritism but to make sure the work place is free of any perception of favoritism.

**Ken Purdy:** I think that is very true. If there is separation, there are situations where it works. But in the case of an agency head it always raises that issue.

**Chairman Dever:** If we pass the bill, it would still be up to the governing board to decide to allow it?

**Ken Purdy:** It raises the question of what happens in the health department or the DOT where the Governor is the authority and there is no governing body. It puts that lack of clarity in there.

**Chairman Dever:** Closed the discussion on SB 2365.

**(Recording # 23711 begins here)**

**Chairman Dever:** Opened SB 2365 for discussion.

**Senator Davison:** Moved a Do Not Pass.

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**Senator Poolman: Seconded.**

**A Roll Call Vote Was Taken: 5 yeas, 1 nay, 1 absent.**

**Senator Davison will carry the bill.**

Date: 2/12  
Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2365**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Davison Seconded By Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	AB	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll		✓			

Total (Yes) 5 No 1

Absent 1

Floor Assignment Davison

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

**REPORT OF STANDING COMMITTEE**

**SB 2365: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING).  
SB 2365 was placed on the Eleventh order on the calendar.