

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1527

2005 HOUSE JUDICIARY

HB 1527

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1527

House Judiciary Committee

Conference Committee

Hearing Date 3/9/05

Tape Number	Side A	Side B	Meter #
2		xx	18.6-39
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Maragos).

Chairman DeKrey: We will open the hearing on HB 1527.

Tom Tupa, Board of Social Work Examiners: We had an issue about two weeks ago at a board meeting. An individual who had been a member of the Guard was called up to active duty and was sent over to Iraq, and as a result of that, raised the question with the board, what happens when the time of licensure renewal comes, and what about the requirements of continuing education, that they have to achieve in order for renewal. It presented a question to the board, the board looked at legal counsel, and legal counsel said that our particular statute was written such that it couldn't be waived, that board could not waive the continuing ed. requirement. As a result of that, some of the board members directed me to visit with some legislators, to see if a bill could be introduced to deal with the issue of people who are called up to active duty and can't meet the requirements for licensure renewal. Coincidentally, I ran into Chairman DeKrey, and he had a personal experience that was brought to his attention, and with his gracious consent, we

proceeded to ask for the delayed bill, which would take care of the problems. As we talked about then, we found out there were other licensing and regulatory boards involved, and could come under some of the same problems. So we talked about it and decided to make it somewhat generic and write it so all regulatory boards, professional and occupational could deal with the issue as well. Two other things came to mind, one was an emergency clause because some boards need to get into the licensing and the renewal process by July 1 and another one was a retroactive application, because some boards may have already encountered this particular problem. I visited with a few other regulatory boards and they all expressed the same concern, although not all of them are having problems at this particular time, but they are anticipating that they could conceivably have some problems as renewal times come around. When we looked at the language after the draft was written, we concluded that just limiting it to continuing education might be a little narrow. I talked with other people, including the National Guard, and it looks like we could expand that a little bit, giving regulatory boards and commissions some additional ability, flexibility, in dealing with folks who are called up to active duty. So on line 3, we think that replacing "continuing education", with just "licensure", so it would read, "licensure requirements;" and then the rest of that, and if that were acceptable, then on line 9 we would have to take out "continuing education" there too, and put in "licensure" and on line 10 delete "continuing education" and then continuing on down to line 21, where it says the word "licensure", we thought we would need to insert "board", right before licensure and delete "renewal". So that line would read "determination under Section 1 of this act, which applies to a Board licensure (and there probably should be the word process that preceded the effective date).

That's the background as it deals with suggested amendments and there may be others that the committee might want to consider.

Representative Delmore: When we change continuing education for licensure, would there be other boards that might want to be "on board" with this bill. I certainly have no problem with the intent of the bill or where it goes, but I would hate to not include some people who might want to be, how extensive a search did you do in the beginning to find out a board's willingness to go along with this.

Tom Tupa: Actually this bill as it's written, comes in under 43.51 and that's really all inclusive of professional and regulatory boards and you'll see, starting on line 15, it also adds back in to the code those boards who opted out of that particular section. So this would apply to most everybody we can think of.

Representative Klemin: In looking at chapter 43.51, it already lists these entities, these particular boards here in section 1, you're going to add another section that says the same thing, and I'm not quite following you on Representative Delmore's question, for example the State Bar Association is not listed here, the State Board of Abstractors Examiners is not listed, and I belong to both of those. So I think we are potentially leaving out a lot of other boards that do have continuing education requirements. Maybe some of those already have exceptions already.

Tom Tupa: If you look at the statute, 43.51, where it first of all excludes a number of boards there and then on the bottom of that subsection 1, it says, "board also includes any agency or state government, which is created and identified outside this title to regulate a particular occupation or profession if the agency elects to come in under Administrative Rules". We think that covers all of those boards and puts back in those that were excluded just above that.

Representative Klemm: Maybe there's an ambiguity on line 15, for purposes of this section, which is the whole section 1, board means just those specific ones.

Tom Tupa: It includes.

Representative Klemm: Well, there's a rule that says if you include these, and you don't say it includes the others.....

Tom Tupa: If you look at the law as it is written in the code, -01, the exceptions under subparagraph 1 are the Board of Accountancy, and when you look at the bill, it says for the purposes of this section, it includes the Board of Accountancy, so while they were excluded in 43.51-01, they are included in the statute. LC drafted the bill and this was the language they had suggested.

Representative Kretschmar: I'm aware, I am not familiar with it all, federal statutes, is there anything in there that would affect this.

Tom Tupa: As we understand that, and I don't profess to be any expert in that statute at all, there needed to be something specific to deal with board requirements.

Chairman DeKrey: Thank you.

Major Brian Keller, Deputy State Surgeon, ND National Guard: Support (see written testimony).

Chairman DeKrey: Do you want to give us your personal example of what happened to you.

Major Brian Keller: This goes back to November, 2003, when our first activation happened. The 142nd was called up and with little time. Actually my nursing license expired in December, but with the activation of the 142nd, the 957 right after that, and a personal injury that laid me up in the hospital for some time. By the time I caught myself and what happened, it was April,

2004. I was fined \$980.00 for not renewing my license. I then asked if I could go in front of the Board of Nursing and they said I could. I went in front of the board and explained the situation, due to war, but I also explained to them that it is partly my responsibility, and I accept some responsibility for it. I asked them what was different in the process of them sending out renewals. They told me that they went from sending a general letter to sending a postcard. That was a change by the board, and I called the post office and the post office said that was the #1 piece of mail that is lost. I'm not saying that is the total reason for not renewal, because I do accept responsibility, I never did receive it. In follow up, I asked if we could go back to the old system to make it better. They wouldn't even hear of that. I then asked if they would, like other professional agencies, send a 2nd notice out. The comment to that was the driver's license division doesn't send second notices out, so we shouldn't have to either. To me, and my fellow peers, I took that personally, that they compared my nursing license to a drivers license. At that, I left it and paid my fine, which was due to me and we went on from there. Then we had other instances with other soldiers, there still are some soldiers that are coming back that may have requirements when they do renew, if they have to show continuing education, or work status.

Representative Koppelman: Do you know if boards that oversee licensure, continuing education, etc. in North Dakota, have any latitude when it comes to things like this. You went before the board, could they have said this is a special case, we understand, we're going to overrule our requirement or waive these requirements in this case.

Major Brian Keller: I believe that in talking with physician, our State Surgeon, he did say that yes they would have latitude to do that in rare circumstances, which personally I feel war is a rare circumstance.

Representative Kretschmar: On lines 20-22, it says a board may make a case by case exception, I think we should write a statute that there are no exceptions, a person on active military duty is exempt.

Major Brian Keller: I gave the chair the amendment changing, basically all we have to do is change educational to licensure and that would expand the definition sufficiently that it should cover every circumstance. I found myself with a little extra time this morning during the meth hearing.

Representative Koppelman: Given what we heard in testimony, I really agree with Representative Kretschmar's point, and as I read this bill, it says a board may adopt rules. Well, if some boards are not inclined to do so, maybe we should say shall, or have some other provision that says that this is the policy of the state, we're going to have exemptions.

Tom Tupa: In regard to the first question raised earlier, our legal counsel when asked if the board had any option of waiving continuing education requirements, advised the board that our law was written so strict, that that was not a waivable item; and therefore, that's the reason they suggested we seek some additional statutory allowance for that. With regard to going more liberal than what the bill is presented, I'm not so sure that our board would have any problem with that if it was an issue where you just simply exempted them from those kinds of things under these circumstances. We do have in our board, and I think most boards have these, they can waive certain things on medical kinds of conditions and in very severe catastrophes, but for this particular situation, when they are called up to active duty, it seems like it's not within the statute on most of these.

Page 7

House Judiciary Committee

Bill/Resolution Number HB 1527

Hearing Date 3/9/05

Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. We will close the hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1527

House Judiciary Committee

Conference Committee

Hearing Date 3/14/05

Tape Number	Side A	Side B	Meter #
2	xx		10.9-14.5
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 12 members present, 2 members absent (Reps. Maragos & Charging).

Chairman DeKrey: What are the committee's wishes in regard to HB 1527.

Representative Kretschmar: I move the amendments .0101 dated 3/11/05. Mr. Tupa wanted to replace continuing education with license renewal, because license renewal includes the provision that you've done the continuing education, then on line 8, replace "or may" with "and shall", so that the boards have to give these servicemen the time or the waiver to continue their licensure while serving in the armed forces. There are some that Mr. Tupa mentioned that, for example at the Grand Forks Air Base, there are regular Air Force people who do get licensed and continue to get licensed in the regular course of business, mainly for people who are in combat or serving overseas. I really am in sympathy with the fellow that said he had to pay \$980 because he didn't get his renewal in.

Chairman DeKrey: When he went to the Board, the Board gave him, as the reason that, that's state law and we have to follow state law.

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1527
Hearing Date 3/14/05

Representative Kretschmar: Well they can follow state law now.

Chairman DeKrey: Representative Kretschmar moves the Kretschmar amendment dated 3/11/05, number .0101.

Representative Meyer: Seconded.

Chairman DeKrey: Motion carried. We now have the bill before us as amended.

Representative Delmore: I move a Do Pass as amended.

Representative Koppelman: Seconded.

12 YES 0 NO 2 ABSENT DO PASS AS AMENDED CARRIER: Rep. Kretschmar

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1527

House Judiciary Committee

Conference Committee

Hearing Date 3/16/05

Tape Number	Side A	Side B	Meter #
1	xx		0-6.5
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Charging).

Chairman DeKrey: On HB 1527, the way we amended it, we've got a conflict in our rules.

The way we amended it, we have "a board shall adopt rules and provide for", or "may" grant on a case-by-case basis, and LC thinks that is confusing.

Representative Klemin: It's not the way I wrote it down. The way I wrote it down was "the board may adopt rules and provide for" or "shall grant on a case-by-case basis".

Intern: It needs to be may and may or shall and shall.

Representative Klemin: The way you read it was opposite.

Chairman DeKrey: The way it's on the 6th order today, is "a board shall adopt rules and provide for" or "may grant on a case-by-case basis".

Representative Delmore: I make a motion to reconsider our action on HB 1527.

Representative Meyer: Seconded.

Chairman DeKrey: Motion carried that we reconsider our actions by which we amended HB 1527. We do have the bill before us.

Representative Klemin: I move to amend as follows: "board shall adopt rules or shall grant on a case-by-case basis".

Representative Meyer: Seconded.

Chairman DeKrey: Motion carried. We now have the bill before as amended.

Representative Kingsbury: I move a Do Pass as amended.

Representative Delmore: Seconded.

12 YES 0 NO 2 ABSENT DO PASS AS AMENDED CARRIER: Rep. Kretschmar

House Amendments to HB 1527 - Judiciary Committee 03/15/2005

Page 1, line 3, replace "continuing education" with "license renewal"

Page 1, line 7, replace "**Continuing education**" with "**License renewal**"

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

Page 1, line 9, replace "continuing education" with "license renewal"

Page 1, line 10, replace "continuing education" with "renewal"

Page 1, line 20, replace "may" with "shall"

Renumber accordingly

Date: 3/14/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1527

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Delmore Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	A		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	A				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Kretschmar

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

REPORT OF STANDING COMMITTEE

HB 1527: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1527 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "continuing education" with "license renewal"

Page 1, line 7, replace "**Continuing education**" with "**License renewal**"

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

Page 1, line 9, replace "continuing education" with "license renewal"

Page 1, line 10, replace "continuing education" with "renewal"

Page 1, line 20, replace "may" with "shall"

Renumber accordingly

50842.0201
Title.0300

Adopted by the Judiciary Committee
March 16, 2005

House Amendments to Engrossed HB 1527 - Judiciary Committee 03/16/2005

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

Renumber accordingly

Date: 3/16/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1527

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Kingsbury Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	A		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	A				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Kretschmar

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

REPORT OF STANDING COMMITTEE (410)
March 17, 2005 3:36 p.m.

Module No: HR-49-5335
Carrier: Kretschmar
Insert LC: 50842.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1527, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1527 was placed on the Sixth order on the calendar.

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

Renumber accordingly

2005 SENATE HUMAN SERVICES

HB 1527

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1527

Senate Human Services Committee

Conference Committee

Hearing Date March 29, 2005

Tape Number	Side A	Side B	Meter #
1	x		00-1620
Committee Clerk Signature <i>Cathy Minard</i>			

Minutes:

Chairman Lee opened the public hearing on HB 1527. All members were present.

Representative Duane DeKrey introduced the bill which relates to military service member exceptions to occupational licensing board license renewal requirements.

Rep. DeKrey: This is a delayed bill that was put in by me after I heard of some of the stories of what happened to some of our service members after they had been activated. When some of these individuals were mobilized, some out of state and some overseas, their professional licenses were lapsing in North Dakota because they weren't getting the required instructional time in or they weren't getting their applications in because they were unaware that their license were due because they were at war or gone. When these situations arose, the Guard tried to work with some of these agencies and were told that there was nothing that they could do because it was state law that this is the way it was written and they couldn't make exceptions. So this bill says that if you're at war or mobilized, they can make exceptions for you. An example: there

was an individual over in Iraq acting as a combat medic, but didn't qualify for the eight hours of work for her professional license, which is ridiculous. This bill addresses that issue and do what we say all the time and support our service members of this state.

Sen. Brown: Have you got all the boards covered?

Rep. DeKrey: Yes. When you read the bill, it looks like we're only picking out a few, but if you go to the section in code, all the agencies are listed, and the only reason those agencies are listed in the bill is that they're not listed in the code.

Testimony in favor of the bill

Tom Tupa: I'm not here as a lobbyist, but as an employee of the board of social work examiners. Our board had an issue with military people called up for military duty and the question was raised about whether these people would have any special consideration on a renewal issue. When we checked with legal council, they informed us that our statute was so tight that there was no ability for the board to waive the renewal requirements if they felt they needed to do that for someone called to service. We worked with Rep. DeKrey who introduced this delayed bill. We like it the way it is and we think all the language is worked out. We want to mention that there is an emergency clause on this because we thought that there might be some boards that may have already been working in the renewal process and by the time this would take effect, maybe July, might miss the opportunity to waive some of the renewal requirements.

Major Brian Keller, Deputy State Surgeon, See written testimony (Attachment 1)

John L. Jacobsen, Chairman of the Legislative Committee of the North Dakota Veterans

Coordinating Council. See written testimony (Attachment 2)

Lt. Colonel Dave Thiele, North Dakota National Guard.

Sen. Lyson: Subsection 1 B, serves in theater or area of armed conflict by a licensee. How about the people who are called up and have to go to Ft. Carson and spend a year down there getting others ready to go over, are we exempting them?

Thiele: Any activation more than 30 days.

Vice Chairman Dever: Soldiers and sailors act and that kind of thing doesn't cover this kind of thing?

Thiele: It doesn't cover this type of thing. Each agency has its own rules and regulations. While the Service Members Civil Relief Act covers a lot of areas, this is one where it's lacking. For the most part, the agencies and boards bend over backwards to support the soldiers and its been the rare exception that they can't.

There was no further testimony on HB 1527. Chairman Lee closed the public hearing.

Senator Brown moved DO PASS on HB 1527, seconded by Senator Dever.

VOTE: 5 yeas, 0 nays, 0 absent Carrier: Senator Lyson

REPORT OF STANDING COMMITTEE (410)
March 29, 2005 4:35 p.m.

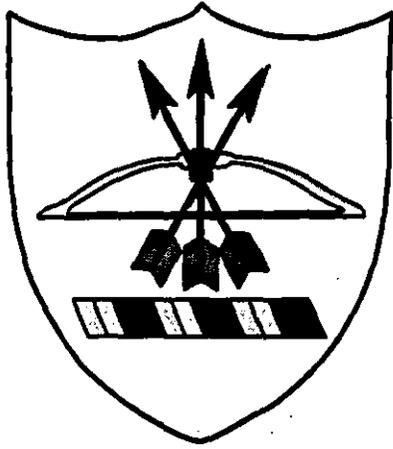
Module No: SR-57-6524
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1527, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Reengrossed HB 1527 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1527



Army National Guard
"The Straight Arrows"



Air National Guard
"The Happy Hooligans"

The
North Dakota
National Guard

Testimony of
MAJ Brian Keller
Deputy State Surgeon
before the
House Judiciary Committee
March 9, 2005
HOUSE BILL 1527

TESTIMONY OF
MAJOR BRIAN KELLER
DEPUTY STATE SURGEON
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
HOUSE JUDICIARY COMMITTEE
MARCH 9, 2005
HOUSE BILL 1527

Mr. Chairman and Members of the Committee,

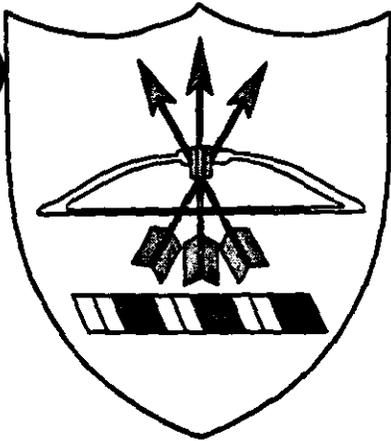
To date over 2,800 North Dakota National Guard members have been mobilized in support of Operation Enduring Freedom and Operation Iraqi Freedom. With many of these soldiers and airman serving in remote and hostile areas of the world their ability to maintain continuing educational requirements has been threatened due to simple logistics. HB 1527 will greatly help our military members and ease a great stressor.

House Bill 1527 recognizes that our military members in many instances cannot maintain continuing education requirements due to mobilization. The last thing we want is for our soldiers to serve and then have their livelihoods jeopardized due to noncompliance with educational requirements that can, and should, be waived. We believe that in addition to education that "work" requirements should be listed as a possible exception. We had a soldier with the 141 Engineer Combat Battalion serving as a combat medic with a requirement to show 8 hours of employment as a certified nursing assistant (CNA) within the last two years. The agency denied the request for certification and refused to consider her service; stating that she must show 8 hours of employment in North Dakota in the last two years. Even though the agency could not show where in the administrative rule or law it required 8 hours in North Dakota they continued to resist and only after having our Staff Judge Advocate write the agency was the certification granted.

In order to correct this situation I have an amendment that would add "work" as a requirement that may be waived.

HB 1527 will allow agencies and boards who understand the hardships placed on our soldiers and airman to make reasonable exceptions to current requirements on a case-by-case basis. While an agency or board is not required under this law to grant an exception we trust that cases in which an agency or board refuses to grant an exception will be extremely rare; most boards and agencies have tried very hard to accommodate our Servicemembers.

In conclusion, the Adjutant General's Office strongly supports this bill and, on behalf of all our soldiers and airman, we request your favorable consideration. Thank you Mr. Chairman and members of the committee. I would be pleased to respond to any questions.



Army National Guard
"The Straight Arrows"



Air National Guard
"The Happy Hooligans"

The
North Dakota
National Guard

Testimony of
MAJ Brian Keller
Deputy State Surgeon
before the
Senate Human Services Committee
March 29, 2005
REENGROSSED HOUSE BILL 1527

TESTIMONY OF
MAJOR BRIAN KELLER
DEPUTY STATE SURGEON
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
SENATE HUMAN SERVICES COMMITTEE
MARCH 28, 2005
REENGROSSED HOUSE BILL 1527

Madam Chair and members of the committee:

To date over 2,800 North Dakota National Guard members have been mobilized in support of Operation Enduring Freedom and Operation Iraqi Freedom. With many of these soldiers and airman serving in remote and hostile areas of the world their ability to maintain continuing educational or other licensure requirements has been threatened due to simple logistics. House Bill 1527 will greatly help our military members and ease a great stressor.

House Bill 1527 recognizes that our military members in many instances cannot maintain licensure requirements due to mobilization. The last thing we want is for our soldiers to serve and then have their livelihoods jeopardized due to noncompliance with licensure requirements that can, and should, be waived. We had a soldier with the 141 Engineer Combat Battalion serving as a combat medic with a requirement to show 8 hours of employment as a certified nursing assistant (CNA) within the last two years. The agency denied the request for certification and refused to consider her service; stating that she must show 8 hours of employment in North Dakota in the last two years.

HB 1527 will allow agencies and boards who understand the hardships placed on our soldiers and airman to make reasonable exceptions to licensure requirements on a case-by-case basis or they can adopt rules to provide for exceptions.

In conclusion, the Adjutant General's Office strongly supports this bill and, on behalf of all our soldiers and airman, we request your favorable consideration. Thank you Madam Chair and members of the committee, I would be pleased to respond to any questions.

North Dakota Veteran's 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 a member of both the VFW and the American Legion. I am also a member of the VFW National Legislative Committee. We work directly with our Members of Congress on legislation at the national level.

The NDVCC membership is comprised of 15 members representing the five (5) veterans' organizations in the state. (3 from each organization) They are:

- American Legion
- AMVETS
- Disabled American Veterans (DAV)
- Veterans of Foreign Wars (VFW)
- Vietnam Veterans of America (VVA)

These organizations represent approximately 61,000 veterans currently living in North Dakota.

I am a member of the Legislative Committee of the NDVCC. I am not a member of the NDVCC but report directly to them. In order for the Legislative Committee to support any bill brought up before our Legislature, concurrence must be unanimous, that is all 5 organizations must agree that we should support the bill. An organization with 2 no votes can eliminate our support of the bill.

I have been instructed to ask you to support HB 1527.

Thank you.