

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1562

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1562

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 01/30/2009

Recorder Job Number: 8258

Committee Clerk Signature

*Melissa M. Orlandt*

Minutes:

**Chairman Grande:** Open the hearing on HB 1562. Clerk read the title.

**Rep. Jasper Schneider, District 21 in Fargo:** I would like to thank Rep. Meier for co-sponsoring HB 1562 with me. What HB 1562 does is allow the Office of Management and Budget to create a pool of up to 800 hours to allow the members of the ND Public Employees Association the ability to testify at hearings, attend legislative committee meetings, attend grievance procedures, without having to use their own personal leave. I think one of the things we should keep in mind as Legislators, when we come down here for the Legislature for four months every two years, (can't understand) the public employees that make the State Government tick on a day in day out basis. They often times know how their particular agencies work best. Often times these committees need different agency heads or certain designated individuals that maybe don't always necessarily hear from the people that actually make the places tick. I think that is some of the motivation of this bill. In a nutshell, what

this bill does, is it allows us to open (can't understand), allows us to hear all voices in any given situation without having the Public Employees taking personal leave to come down and be before us or other duties that our consistent with the operations of their agency. I would be happy to answer any questions if there are any?

**Chairman Grande:** Two questions? I don't find a fiscal note, so I assume this will all be without pay?

**Rep. Schneider:** Correct. There is a not a fiscal note and perhaps there should be. I think perhaps, OMB will address that but it is an established pool up to 800 hours. I suppose the fiscal note would have to depend on how many hours were designated. For example, I think in practical purposes of how this may work in a lot of agencies, stand to be corrected if I am wrong, if a public employee wants to come and testify for example that agency may work with them to allow them to take two hours off, if they work two hours later. That works fine and dandy but it is not always realistic to move those hours around, especially if you have families or activities at night or just busy as it is. For practical purposes to in the private sector, especially salaried employees, as long as they are getting their job done if you have to take some time off here and there to take care of business it should be permissible. I think that what this bill does is puts it into law to make it all legal

and will not force public employees to take personal vacation days to tend to other business.

**Chairman Grande:** Being ND is a right to work State and I am a person who would be an employee of the State and choose not to be a member of the Public Employees organization, I don't get to have days off?

**Rep. Schneider:** You are right that ND is a right to work State, (coughing) clause don't imply to public employees. If you are going to turn it into a public employee you have to have a cause to do so. Certainly the bill could be expanded to include all public employees. I think you may be looking at a pool in well in excess of 800 hours at that point. But that would be a decision this committee could make and also for OMB to comment on.

**Rep. Froseth:** How did you arrive at 800 hours?

**Rep. Schneider:** I think the following speaker will be able to better answer that question. Perhaps they can talk about the number of members and such. I think it is important to remember that the words "up to" are included in there. The OMB would be able to determine what amount of hours would be appropriate.

**Vice Chairman Randy Boehning:** With this 800 hour pool are they going to come down and testify on behalf of their agency or are they going to come down and testify on other bills? If they testify for their agency they should not have to take any hours out of the pool because it would be a directive by their agency

head and on-behalf of their agency. Or are they going to be using this pool to testify on bills that do not pertain to their agency and they have just a personal interest in them?

**Rep. Schneider:** That is a good question. I think that is a good question. I think what the intent was to really make it all proper if you will. If certainly at the direction of an agency head, they ask one of their employees to come down and testify, usually that is in the lines of business. But they have run into situations where a Public Employee wants to come and testify that maybe is not at the request of the agency head. What this bill does to, is build in a safeguard for the Public Employee, so that they cannot just come and testify on something that is completely out of line with the agencies mission or the scope of them. It would have to be consistent with what the agency is doing and also I believe on Line 12, Rep. Boehning, activities currently agreed upon by the Chief Administrative Officer of the Public Agency. So it would not just allow them to leave on their own.

**Vice Chairman Randy Boehning:** Are they going to be coming down and testifying representing the agency when they are on this leave, are they testifying in favor of a bill on the agencies behalf, are they on a personal time, are they going to come up and say I am represented by the Health Department? If they are going to be testifying for the agency, the agency should have control over

that. If they are going to come down and testify against the agency or anything that should be on their personal time like anybody else that would be coming from out of town that is working on salary or on their own dime that spends a lot of money getting here versus coming from in town. The agency apparently does not need them to testify or otherwise the agency head would have appointed them to come down and testify so I think I am not really in favor of this bill.

**Rep. Schneider:** It is my understanding that if a Public Employee took advantage of these hours to come down and testify, it would be on their own merit. It would not necessarily be on behalf of their agency, unless the agency instructed them to do so. I think that a good example of this would be of what happened yesterday. I think it was on the Veterans preference bill. We had a gentleman testify who, I believe, was a Public Employee, wanted to testify on his knowledge of how the Veteran's preference was for practical purposes, not out of the line of his scope of regular duties, but he wasn't testifying on behalf of his agency or his department, but just providing his own personal knowledge, so us as a committee can benefit from that insight. He mentioned that he had to take a vacation day to do so. I think it is reasonable for a Public Employee and their agency director if they both agree to allow them to take a couple hours off to come and testify, so be it. The reality is it probably happens anyway. But the law as such is improper and this would allow it to be so.

**Chairman Grande:** Any other questions from the committee?

**Rep. Lisa Meier, District 32, Bismarck:** I just want to add that I stand in strong favor of HB 1562 and I know that there are many others to testify on this Do Pass. But I will stand for any questions.

**Chairman Grande:** Anyone else wishing to speak in favor of HB 1562?

**Gary Feist, President, North Dakota Public Employees Association, AFT**

**Local 4660: Auditor, State Tax Commissioners Office:** Testimony. See Attachment # 1.

**Rep. Froseth:** As president of the NDPEA, doesn't your association pay your expenses to go to some of these things?

**Gary Feist:** They do pay my annual expenses to go, but I am on my annual leave with them. I don't get any compensation.

**Rep. Froseth:** (Can't understand, talking to softly)

**Chairman Grande:** I know that you mentioned here, you will be taking time off to testify on various bills and stuff, doesn't NDPEA have hired lobbyists to do that work for you?

**Gary Feist:** Yes, NDPEA does have a lobbyist, but we feel it is important for our members also to be able to participate and express their views.

**Chairman Grande:** Any other questions? Anyone else wishing to speak in favor?

**Stuart Savelkoul, Executive Director, North Dakota Public Employee**

**Association:** Testimony. See Attachment # 2.

**Chairman Grande:** How many members do you have?

**Stuart Savelkoul:** The membership of our organization is about 1500.

We have 15,000 State Employees. We are also the largest association that represents Public Employees in our State.

**Chairman Grande:** Would you object to this applying to any employee? I think this is kind of a narrow group that would have this opportunity.

**Stuart Savelkoul:** I think that the objection to making it applying to all State

Employees would only come in the fact that it would require more hours. This refers to more than just simply testifying before the legislature. The grievance process alone represents a significant commitment of time that don't live in Bismarck. We also have people as our President mentioned that have to travel out of State on behalf of the Public Employees (throat clearing), whether it be to lobby Washington or anywhere else to receive training that will benefit their respective agencies in the long run.

**Chairman Grande:** But the purpose behind this is so people can come down to testify or to attend grievances and so what if you are not a member of this? I should not get that same opportunity of paid leave to do these same activities?



**Stuart Savelkoul:** I think that the reality is, is that when an individual is working on a grievance on their own behalf, they are dealing with a specific agency itself. They are doing it during work time. One of the advantages of being a member of NDPEA is that you get assistance in that grievance procedure or grievance processes. The problem is that, that assistance often comes from other members within the association. Those members are not afforded that same primary leave to attend the grievance because it is not their own specific grievance that they are working on.

**Vice Chairman Randy Boehning:** The question is if you have the pool of 800 hours, how do you divide that up? If you have one employee that makes \$25,000 and one that makes \$85,000. The one that makes \$85,000 is he going to take more out of the pool or how is that going to be built?

**Stuart Savelkoul:** Actually that is a big part of the reason why a fiscal note wasn't immediately assigned to this bill. It is a rather difficult thing to quantify. However, I think that if you are to consider that the medium salary of our State Employees in ND is roughly \$38,000 annually, you can multiply that by 800 and you arrive at a figure of roughly \$15,000. Now understanding that someone making \$85,000 is going to cost more than someone making \$25,000. I also think it is safe to assume that the frequency of people, why have more people in our State making \$25,000 than we have people making \$85,000.

**Vice Chairman Randy Boehning:** Do you think we should have a pool of money out there for our citizens to come in and testify? I know that I have one person I am putting a bill in for and she has to give a two week notice so she can get off. Do you think we should have a pool of money out there for them so they can come and testify against bills out here to?

**Stuart Savelkoul:** That is an excellent question and my answer to that is that individuals all have individual interests and I think collaboratively and cumulatively, they benefit or impact the Legislature. What I think as Rep. Schneider so astutely pointed out in his opening remarks, Public Employees play a very integral role in the running of our State and keeping our State moving. So the reason why the Public Employees Association would be different than say an average Joe, in the private sector, is that the work we do is integral to making things happen so that you as Legislators can do the work that you want to.

**Vice Chairman Randy Boehning:** With those comments, you are telling me that my constituents are not that important to legislation out here? You guys are more important to legislation than my constituents are?

**Stuart Savelkoul:** If that is what I lead you to believe allow me to rephrase that. I think that the work that you do in this building is impacted more heavily by Public Employees than by private citizens and the reason why that is: It is not private citizens, it is not somebody employed at Walmart that comes in here

during the day to run the building, to give the tours, to mop the floors and take out the garbage, to literally make sure that the bills are getting paid to keep the lights on. Now, I suppose in a manner of speaking, everyone is a tax payer so everybody is sharing that role but Public Employees are carrying an equal role of that as private citizens are. To answer your question, I think that all citizens are important, but I think that Public Employees play an integral role in keeping our State Government moving and I think it's fair to say that they play a more integral role in keeping State Government moving than somebody working in the private sector because in addition to paying their share of income taxes, as all of our citizens do, the very nature of their work is dedicated to State Government.

**Chairman Grande:** Run these numbers one more time? We have 15,000 employees, and you have how many members?

**Stuart Savelkoul:** We have 1500 members. The status quo or the most common request for a bill of this legislation is to ask for one hour for every member that you had in the previous year. In our situation the more status quo requests would have been to ask for 1500 hours. In a manner of speaking, Rep. Schneider could have put a bill together at 800 hours and bargaining could have occurred and then amendments could have happened and lowered it down to 800 and we got we want. But we thought that because this Legislation just recently passed in Kansas, or at least that Kansas' Public Employees just

recently achieved this 800 pool of hours, we felt that was an adequate point, and certainly better than status quo for what our association is currently receiving.

**Chairman Grande:** Do you know how many members belong to the Kansas Public Employees Association?

**Stuart Savelkoul:** I do not, but I would be happy to yield that to anyone in the room who does know or to get back to you with that question?

**Chairman Grande:** If you do might be able to see MN, MT, and AK?

**Stuart Savelkoul:** I would be happy to provide you with that information.

**Chairman Grande:** Any other questions? Anyone else in favor?

**Dave Kemnitz, President of the ND AFLCIO:** The HB 1562, as I listen to the testimony, I had some thoughts on what is happening within the Government versus the private sector. This particular bill speaks directly to not governing but collaboration of the governing process in government especially. Which expects, trained, skilled, and competent participants on either side. In contrast of what they asked here, 800 hours, and I don't know what the budget is, but you might look at it, but the budget of HR can include the State of ND. They are trained, they are expected to be competent, they are skilled in what they do, which is HR, and they(NDPEA) deal with the independent associations, they deal with BCTGM, which is Bakery, Tobacco, Gas, and Grain Millers Association, or

members of a local mill and elevator, they deal with CWA, in some instances when they are in nursing homes and they also deal with other union fire fighters. The State of ND apparently believes that human resources are one of the essential parts of its governing processes. Its mechanism to make sure everything works. These people as well as others are expected to have the same skill, training and competency as appears in a labor management situation, that is one. The legislative side of this is that Legislators make decisions based on the information presented and what they have acquired in the past. When the mill and elevator comes before you, they have a HR side of the equation and I think that you would expect if there is a component of what the workers would have to say it should become part of a presentation that is presentable, understandable, and has some backgrounding in it. Those people either must take annual leave, by paid their expenses by the other members of the unit, and some not all people are members of any unit, but these people bear the burden of that cost, and not asking for anything for anything different there, but they expect to come here, firefighters, janitors, cleaning crew, subdivisions, bus drivers, apply to you by the bargaining unit, bring to you the information you may not have about what they experience, need, and express what their labor management considerations are, why wouldn't you want to bring that forth if you could? The situation in this bill addresses something that a personal loss to Gary

Feist should be addressed. HR comes before you and doesn't lose one personal leave day, one hour, one minute. Gary Feist comes before you and loses all of his accrued time if it is not recognized, his information and their information, (throat clearing), that is important. To file the equation which you make a statement on and why would they give their personal time when the other side of that equation gives none of their personal time. Legislators are expected to serve in interims, you get paid some income, you get paid your expenses, and you are afforded other benefits. That man and those people and his counterparts, female counterparts, NDPEA, and the independent associations, and BCTGM, and other local units of organization are expected to give their personal time and that is the imbalance. So they are asking that you take a look at this and consider not only the Legislative hearings, but the grievance proceedings, the disciplinary hearings, the labor and management hearings, the negotiating sessions, and in particular, or other meetings or activities jointly agreed upon. That is totally in the realm of management rights. Management rights says that they can decide the issues acceptable in that particular section of the language, that they would allow the time budgeted. So I think it protects very thoroughly the idea of whose in control, who makes the decision, and how do you order your work in such a way that the absence doesn't impact your service for the State to the constituency better and faster.

**Chairman Grande:** Anyone else wishing to speak in favor of 1562? Favor?  
Opposition?

**Wayne Papke, Financial Advisor, Citizen for Responsible Government:**  
Testimony. See Attachment # 3.

**Chairman Grande:** Any questions from the committee?

**Rep. Amerman:** You are representing Citizens for ? Are you retired, do you have other employment or is this what you do?

**Wayne Papke:** Responsible Government. Full time employee by Citi-Group.

**Chairman Grande:** Anyone else wishing to speak against?

**Dustin Goverlow, Executive Director of the ND Taxpayers Association:** I do not have written testimony, as I was not planning to testify on this but some things that I heard disturbed me. I think that the direction of documenting of what is already going on, is a good direction, any time a public employee is using public time for anything that is not specifically in their job description, it should be documented. I think that we can all agree on that. The problem with this bill is it seems to create a special class of citizenry, called public employees and its members, that have different rights from the average person. As Mr. Papke just said, private citizens don't get reimbursed by the Government to come and testify. We certainly don't want to start down that road about creating different classes of folks in the State, especially since the taxpayers are paying for the

testimony. Private citizens don't have that luxury. There was a reference to Kansas allotting 800 hours for this sort of thing. I just wanted to point out that Kansas is five times the size of ND. In conclusion, this idea of using public dollars to reimburse folks to advocate for bills that may or may not benefit the taxpayers who paid the salaries of the employees testifying, it just doesn't seem to be a benefit to the taxpayers.

**Rep. Wolf:** Your group is called what?

**Dustin Goverlow:** ND Taxpayers Association.

**Rep. Wolf:** You are based out of where? How many members do you have statewide?

**Dustin Goverlow:** Bismarck, and we have roughly 3,000 members.

**Rep. Wolf:** How do you become a member of your group?

**Dustin Goverlow:** Certainly you sign up on our website, you send us a donation, you show up to a meeting you would have somewhere in the State, it is not a really formal type of process, like with the union. But it's mostly flowing, it is folks who show up to the meetings that are interested in the issues. But they are on their own time. If we have a meeting to discuss something in Jamestown to discuss something at noon, regardless of who is they are employed by, they are going to have to take personal leave and it just seems that we need one set of operating procedures for everybody in ND.



**Rep. Wolf:** Is that who you are employed by, is that your employer? Any other employment?

**Dustin Goverlow:** No, not right now.

**Rep. Winrich:** Is your organization supported primarily by member means or something like that?

**Dustin Goverlow:** Member dues, special contributions, it is all at will.

**Rep. Winrich:** Are the 3,000 members you mentioned, dues paying members?

**Dustin Goverlow:** Not necessarily, no.

**Rep. Winrich:** Do you know how many dues paying members you have?

**Dustin Goverlow:** We have roughly just over 100 taking into account that it is simply based on that our organization has only been in existence for two months. So we are still in the process of growing. There are a lot of folks who can't afford to come down to hearings and what we will tell them is we will do it so you don't have to take the time off. I think that is kind of what the unions do, they assist the employees association, they are the representatives of the employees. I think that there has to be a differentiation between advocating between agency policy versus personal policy. But then also, it almost seems like this is a lot for public employees to advocate on behalf of the union itself, which seems like a very slippery slope to go down.

**Rep. Winrich:** You said in your testimony, private citizens don't get support to come and testify before the legislature? My sense is that there is probably a wide variety of policies within different companies, different industries, and so on out there? On what basis do you make such a blatant statement?

**Dustin Goverlow:** They could get reimbursed by the company, but they are not getting reimbursed by the Government, they are not getting reimbursed by the taxpayers. It does not seem fair that the taxpayers should be asked to pay for somebody to come and testify for a bill that may hurt taxpayers. That just doesn't seem fair. It is like funding your opposition.

**Rep. Wolf:** Would you consider a bill to give a public employee a raise to be a detriment to taxpayers?

**Dustin Goverlow:** No, I would not.

**Chairman Grande:** Any other questions? Anyone else wishing to speak against 1562? Against? Neutral?

**Laurie Steroti-Hammern, Director of Human Resource Management**

**Services:** I am here just to present a couple of concerns. In looking at this bill, OMB asked me to mention to you and the committee that we currently don't have a method to track these hours in the payroll system. So it would require some development of the payroll system to identify a process to track this and identify.

Particularly in light of the fact that it is for various needs because we are not authorized for administrative leave at this time.

**Chairman Grande:** Does OMB have a handle on even the medium range of cost to this, the 800 hours? It is kind of hard for us to get our hands around what we are dealing with here?

**Laurie Steroti-Hammern:** At this time, not that I am aware of. I suppose we would look at the average salary and try to figure out, what would be the hourly for that average salary times 800 hours and then also the additional cost it would cost to keep the payroll system up to date to track it.

**Chairman Grande:** If they are salaried employees, how are you going to document that out? That is kind of my concern to.

**Laurie Steroti-Hammern:** I am not exactly sure how we would do it, other than, I would perceive that the agencies would have to request hours from the pool and tell us about how many hours they are requesting and the value of those hours could vary, depending on what the employees paid. If we were to come up with a fund for this, I guess we would do the average salary a month. In looking at this bill there is a number of things that an employee can be asked to attend meetings and attend legislation, but they can also be asked to support colleagues, grievances, and appeals. That may or may not be supportive in an agency. I guess it gets a little bit confusing to me as to what exactly they all

would be doing, because I have worked quite well with the NDPEA and the other associations and working with the grievances and other issues. It seems to me that they do represent more of those members and so on.

**Rep. Wolf:** I am a salaried teacher out of Minot and I know when they need to dock my pay any time I attend a legislative event, they can sure figure out how much I make per day, per hour, per whatever. For public employees, I do not have any idea how their benefits are, how they get their benefits, but you can pretty much take someone's annual salary and figure out how much they make per hour, that is not a real challenging situation? Correct?

**Laurie Steroti-Hammern:** That is correct. We know what our employee's hourly salaries are.

**Rep. Wolf:** If an employee was to take two hours off to go and testify in front of the committee hearing, again it would not be an extreme challenge to figure out how much pay that would be?

**Laurie Steroti-Hammern:** It would not.

**Chairman Grande:** The issue would be how do you track up to the 800 and coming out of which agency?

**Laurie Steroti-Hammern:** That's right, we don't have a code or whatever mechanism to use in the payroll system to identify specifically administrative leave, if it is a broad group of individuals we would have to a mechanism where

they could code that and request the administrative leave so the payroll system would track that. It's not the individuals, currently the payroll system tracks the individuals leave and pays them and awards it to that individual but this is in a pool and we don't have a system in the payroll system to track a pool of hours that is disbursed to a broader system.

**Rep. Schneider:** One of things we need to keep in mind is that public employees are different than private sector employees in the essence that they are taxpayer funded and FTE's are appropriated by the legislature and an agency head can't just release an employee for a couple of hours so he/she can go do whatever, like you do in the private sector. One of the things I struggle with is in any employment setting you have apparent slack built into an 8-hour work day, where people can throttle their work effort up or down. I guess if a public employee wanted to leave to go help a colleague on grievance proceeding or testify on a hearing and the agency head did not have any opposition to it, if that person leaves for an hour, I am assuming that the vast majority of public employees are salaried, comes back and they still get all their work done, is there really any cost involved, except for on paper?

**Laurie Steroti-Hammern:** Actually agencies are not authorized to just authorize administrative leave for that purpose. So that time has to be accounted for in the public sector. It is either one of the various kinds of leave in the statutes or the

State could use flex time if the administrator deems that the time away is not to challenge (can't understand). They can allow that employee flex time but then the employee has to make up that time, either within the day or the week or within a period agreed upon. So they are not authorized time away to do the work that is not within their job description in the central portion of their job which is actually (can't understand).

**Rep. Schneider:** That is exactly what I was saying, to set aside a pool of hours to make it okay for these employees to go do certain activities that outline the legislation. I think that the public employees have to be extra careful, this is the taxpayers money, and I think the bill outlines the pool of hours in a very reasonable way and makes sure that it is a very specific set of tasks and both sides would have to agree on it.

**Chairman Grande:** Anyone else speaking neutral? Anyone else? Close the hearing on HB 1562.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One HB 1562

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/05/2009

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Committee Clerk Signature

*Melissa M. Inhardt*

Minutes:

### COMMITTEE WORK ONE:

**Chairman Grande:** We are going to discuss HB 1562. HB 1562 did not come down here with a fiscal note but I was told by human resources that they discussed that in committee whether or not there should have been one. He did not have time to get a formal one down here but he said sixteen to eighteen thousand would be the fiscal note, plus benefits but the benefits would go along with each of the hours that each person went. So it wasn't something that he thought he would have to factor in. Rep. Boehning has some amendments.

**Vice Chairman Randy Boehning:** Basically what we are going to do here instead of doing 800 hours currently, we are going to do a study on it and see how it is going to work and Rep. Grande was talking about the benefits and everything under this. I believe we should study Kansas that did this, with the 800 hours, and see how it is working down there, how it is going to work out around the State, are we going to have people coming from other districts, where

it goes, is it going to apply to all the employees in the State or if it is just going to be the members of the union. We need to take a look at it and see if 800 hours would be appropriate for this.

**Chairman Grande:** The amendment is before us, do I have a second?

**Rep. Schneider:** I am just wondering if we should remove the 800 hours and just study the feasibility of the administrative leave program. I just don't know that we need to specify the number of hours. We would strike to provide up to 800 hours per year of administrative leave. So it would read: "The legislative council shall consider studying during the interim the feasibility of an administrative leave program for use by executive branch agencies."

**Rep. Winrich:** This was studied was it not?

**Chairman Grande:** No, this was Rep. Schneider's bill.

**Rep. Winrich:** I think that agencies use administrative leave regularly. I suspect that most often, some sort of compensatory time arrangement would be made out or arranged with the supervisor and so on. This certainly doesn't preclude that. It is hard for me to imagine that the mechanism is that difficult. But I suspect that the study perhaps has a chance of passing and the bill as written does not.



**Chairman Grande:** I think that one of the problems with the bill is that we have a special class of 1,500 people that will be given the special paid time to lobby the legislature. It is not fair to the rest of them.

**Rep. Dahl:** I think that if we do something like this we should look at opening up possibly the number of hours even more and I am not sure if we can find out, because we have to get this out today, how many hours would be appropriate for all those State employees. It is something that we just don't know. But I think less important, but the other things we don't know yet are the fact that HRMS talked about having to track this and they are not quite sure how to do it, certainly they could figure it out. But just to give them a little bit of time to do all this.

Especially if we do open this up how they would track all of that.

**Rep. Meier:** This might give us an opportunity to check with the agencies and see what employees might want to actually testify on bills. I know I had a constituent that was in here just this past week that took leave to testify and I believe that he is part of this administration but I am not sure. That might allow for a survey to be taken with the agencies as well.

**Rep. Wolf:** Just to give you a little insight, we have something in my negotiated teacher agreement that allows teachers up to 40 hours a year of paid leave. It is to do the things like what they are doing here. We don't limit it to the members of MEA, it is open to any and all teachers. But it is using taxpayers' dollars, with

approval of the MEA president or non-members but the superintendent has to approve it to. Some years the 40 hours are not used, but this year because of the session, they are using a lot more. I am just wondering in the bill if we took out the lines that say "who are members of a public employees organization" that would open it up to all State employees. It would still limit it to the 800 hours but maybe it would make the bill a little bit more appealing to those who don't really favor that organization. That way we would not segregate or put into different classes with two different groups of people, the members or non-members.

**Chairman Grande:** I am still having an issue with using taxpayer dollars to have someone lobby. My next thought would be they will have to go down the hall and register as lobbyists before they could come in the door because they are being paid to come down here and lobby. I know that sounds a little strange and in-technical but that lobbying law is written a little bit odd anyway. If Rep. Schneider was here and he had clients in the room and he wanted to back up their testimony, he would have to go down and register as a lobbyist to back up their testimony if he wants to come in here as Legislator. That is how tight that lobbying law is, so we want to be able to watch that. But I think that we are walking into a real gray area, when we are using tax payer dollars to have our employees come down here and lobby. If they are coming down to lobby on their agencies behalf is one issue, but if they are coming down for themselves and it is

their personal time then it needs to be paid out of their personal dollars. That is what every other employee in the State would have to do .

**Rep. Winrich:** That argument was made in the testimony too. I have a hard time believing that when the officer's or hourly employees for that matter, of a company like Microsoft, Bobcat, or the corner drugstore in Linton or whatever, that come to the Legislature to testify are always doing so without any compensation for their time. I think that what happens is that they testify because a manager, supervisor, or an executive or someone in that private agency has determined that their testimony is likely to be of benefit to the company or a benefit to the agency that is involved.

**Chairman Grande:** That is exactly right though, we already do that. If they are here on the agencies behalf they get paid to be down here. If they want to be here on their personal time, then they have to go into this pool. If they are asked by their agency to testify, they get paid to come down and testify. That would be the same as what your example was of Butler bringing someone in here.

**Rep. Kasper:** There is one major difference, Butler and everyone else is private dollars and this is public dollars.

**Rep. Schneider:** The intent of this legislation was not to allow people to come down and lobby, I think it is really to give them the freedom and flexibility to come down testify as a public citizen on any bill that they want. I think really that the

intent was to bring public employees into what private sector generally practices.

There is some flexibility involved there. With that being said, I think the study is probably appropriate given that we have a lot more questions than answers.

**Chairman Grande:** Any other discussion, we have the amendment in front of us, do you want to take out that 800? We have this amendment in front of us do we have a motion for further amending? Do I have a second?

**Rep. Dahl:** 2<sup>nd</sup>.

**Chairman Grande:** Everyone knows that we are taking out the words from the words "to" to the words "leave".

**Rep. Kasper:** Does Rep. Wolf take out the words "who are members of the public employees organization" as well?

**Rep. Wolf:** On the amendment? How about we add "who are and are not members"?

**Rep. Kasper:** If you strike out the words it will allow anyone.

**Chairman Grande:** We are further amending to take out the words "who are members of a public employees organization". So we will have "agencies who allow employees to attend legislative hearings". Is that still a part of your amendment Rep. Schneider and Rep. Dahl?

**Rep. Schneider:** Correct.

**Chairman Grande:** All in favor of further amending? I. (consent). We have the amended amendments in front of us, what are the wishes of the committee?

**Rep. Dahl:** I will move a Do Pass As Amended.

**Vice Chairman Randy Boehning:** 2<sup>nd</sup>.

**Chairman Grande:** Further discussion. The clerk will call the roll on a Do Pass Amended Amendments.

**Clerk Erhardt:** Roll Call. Yes: 12. No: 1. Absent: 0. Carrier: Rep. J. Schneider.

February 5, 2009

VR  
2/6/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1562

Page 1, line 1, replace "create and enact a new section to chapter 54-06 of the North Dakota" with "provide for a legislative council study of an administrative leave program for state employees to attend certain hearings or meetings."

Page 1, remove lines 2 and 3

Page 1, replace lines 5 through 18 with:

**"SECTION 1. LEGISLATIVE COUNCIL STUDY - ADMINISTRATIVE LEAVE.**

The legislative council shall consider studying, during the 2009-10 interim, the feasibility and desirability of an administrative leave program for use by executive branch agencies to allow employees to attend legislative hearings or meetings, grievance meetings, disciplinary hearings, labor and management meetings, negotiating sessions, or other meetings or activities jointly agreed upon by the chief administrative officer of the employing agency. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

Date: 2/5/09  
Roll Call Vote #: 7

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1562

House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass As Amended

Motion Made By

Rep Dahl

Seconded By

Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth		✓	Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 12 No 1

Absent

0

Floor Assignment

Rep. Schneider

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

**REPORT OF STANDING COMMITTEE**

**HB 1562: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1562 was placed on  
the Sixth order on the calendar.

Page 1, line 1, replace "create and enact a new section to chapter 54-06 of the North Dakota"  
with "provide for a legislative council study of an administrative leave program for state  
employees to attend certain hearings or meetings."

Page 1, remove lines 2 and 3

Page 1, replace lines 5 through 18 with:

**"SECTION 1. LEGISLATIVE COUNCIL STUDY - ADMINISTRATIVE LEAVE.**

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negotiating sessions, or other meetings or activities jointly agreed upon by the chief  
administrative officer of the employing agency. The legislative council shall report its  
findings and recommendations, together with any legislation required to implement the  
recommendations, to the sixty-second legislative assembly."

Renumber accordingly



2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1562

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1562

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 03/12/09

Recorder Job Number: 10793

Committee Clerk Signature

*Katie Oliver*

Minutes:

**Jasper Schneider:** District 21 in Fargo. Sponsor 1562, a study from the need for public employee to allow for employees to testify, grievance procedures, ect. Public employees are here day in and day out; they make the government work. Original bill was to bring public employees into the because of the way we appropriate FTE's during the legislative process, public employees cannot leave for whatever reason, especially if it is not in the direct scope of what their employment is. The bill in its original form would have allowed OMB to create a pool of 800 hours to attend hearings, grievance proceedings. It was decided that further study would be needed; I would be for putting the bill in its original form. Public employees need it and it needs to be looked at.

**Senator Dever:** Personal concern for state employees?

**Jasper Schneider:** Right now if an employee of the tax department to testify that is appropriate. If they have dealings on another bill that impacts them, directly or indirectly, then it is not allowed. That is where the pool comes in; it would allow them to leave to testify.

**Senator Nelson:** This deals only with executive branch employees?

**Jasper Schneider:** That is correct would be willing to expand it to all public employees.

**Senator Horne:** Have you had employees from this branch come to you?

**Jasper Schneider:** We often have public employees testify and they have to take personal time to do so. Ok to leave as long as it is agreed upon by the agency head.

**Senator Dever:** What about people that work in the capitol?

**Jasper Schneider:** Geographically they do, but in the private sector they allow for more leeway in things like that. The study would try and bring public employee in line with where the private sector is at.

**Stuart Savelkoul:** ED of NDPA. See attached testimony #1.

**Senator Dever:** Since this bill in its original draft was to include all NDPA, how many are members

**Stuart Savelkoul:** We have 10% are members of current public employees. There are 19 states that have adopted legislation in this vain. The fact of the matter is if this legislation my only questions is who will keep track of the hours. When an agency head is here, does that count towards the 800 hours?

**Senator Dever:** Did the other public employee association testify on this?

**Stuart Savelkoul:** There are 8, NDPA is just the largest. Different groups in the state but no other one testified. The bill was aimed at the group that had the largest active membership.

Chairman Dever closed the public hearing on HB1562.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1562

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 03/12/09

Recorder Job Number: 11663

Committee Clerk Signature *Katie Oliver*

Minutes:

**Senator Dever:** NDPA said applied only to their members?

**Senator Cook:** A study, right?

**Senator Dever:** As I recall the only amendment from the house is 'shall study' to 'shall consider'

**Senator Dever:** I don't have a problem

Senator Horne made a motion for a do pass with a second by Senator Nelson.

**Senator Nelson:** The way the study is written it just says employees, not state employees.

**Senator Dever:** I know that there are a lot of people who are concerned with the state employee's access to the legislature.

There was no further discussion, roll was taken, the motion passed with a 4-1 vote, and Senator Horne carrying the bill to the floor.

Date:  
Roll Call Vote #: 1

Carver  
Horne

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1562**

Senate Government and Veteran's Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Horne Seconded By W. Nelson

Representatives	Yes	No	Representatives	Yes	No
Dick Dever	x		Dwight Cook	x	
Dave Oehlke		x	Carolyn Nelson	x	
Robert M. Horne	x				

Total Yes 4 No 1

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**REPORT OF STANDING COMMITTEE**

HB 1562, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **DO PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1562 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1562



NORTH DAKOTA  
PUBLIC EMPLOYEES ASSOCIATION



AMERICAN FEDERATION  
OF TEACHERS LOCAL 4660 AFL-CIO

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## House Bill 1562

Good morning Chairman Grande and members of the House Government and Veteran Affairs Committee, my name is Gary Feist and I am the president of the North Dakota Public Employees Association, AFT Local 4660(NDPEA). I have been a public employee for the past 17 years as auditor in the Office of State Tax Commissioners Office. I am here to testify in support of House Bill 1562, which would provide for a pool of 800 hours of administrative leave for members of the public employee organization to conduct association business and be the voice for all public employees.

Public employees in North Dakota want to have voice in the work place and many times that voice is expressed through their employee organization. NDPEA represents all public employees whether they pay dues to our organization or not. Currently when a state employee needs to testify at a legislative hearing, attend a meeting with the governors office or any agency head, help a fellow employee through the grievance process, or attend a national conference they are required to take annual leave from their job.

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# Testimony





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As President of NDPEA, I am here on annual leave to testify on behalf of this bill today, and will be taking annual leave to testify on other bills this session where it's important that public employees be heard. I am grateful that sometimes my agency allows me to adjust my schedule so I can attend and participate in meetings that are held during my normal work hours. But sometimes it's not possible or convenient to adjust my schedule due to my responsibilities as a husband and a father of three young girls. For the period of May 1, 2008 through April 30, 2009, I will have used approximately 120 hours of my annual leave to be the voice for public employees in North Dakota. Not only am I the voice for employees here in North Dakota, I am also represent North Dakota public employees at the national level by serving on the American Federation of Teachers Public Employee Program and Policy Council. Some of the issues that the council has worked on to find solutions to that the states are facing are: privatization; recruiting and retaining quality employees; public employee pensions; and the economic crisis. On February 4, I will travel to Washington DC along with other AFT public employees, teachers, nurses, school support personnel, and higher education faculty and staff to lobby congress to pass legislation that would benefit public employees in our state.

NDPEA has many members who take annual leave and volunteer their time to represent their fellow employees throughout the state. This bill would allow for more employees to have their voice heard and to participate in

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# Testimony



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programs offered by their employee organization. The concept of administrative leave or release time to conduct association business is allowed by other states around the country, including Montana, Minnesota, Alaska and Kansas. The 800 hours included in this bill is equal to the release time that is provided to the employee organization in Kansas.

Employee want to have a voice in the workplace and by allowing that voice employees will be able to make the state more effective and efficient in serving the citizens of North Dakota. Employees want to have a greater and meaningful involvement in the decisions that will affect them on the job. This bill will help make that a reality.

Thank you for your time. If you have any questions I am willing to answer them.

Gary Feist

NDPEA President

*Quality Services from Quality People*

# Testimony



NORTH DAKOTA  
PUBLIC EMPLOYEES ASSOCIATION

Attachment #2



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Testimony on HB 1562  
Before the House Government and Veterans Affairs Committee  
January 30, 2009

Good morning Chairman Grande and members of the House Government and Veterans Affairs Committee. My name is Stuart Savelkoul and I am the Executive Director of the North Dakota Public Employee Association. I am also in support of House Bill 1562. I would like to begin my testimony today, by thanking the sponsors of this bill. This is my first session in the legislature and I cannot help but be amazed at the sheer volume of legislation that you all study, discuss, and consider every day. The fact that this bill's sponsors have made this particular bill a priority demonstrates that our state's public employees have more than few advocates walking the halls of this Capitol building.

I think that the benefits of this bill are numerous and that the static fiscal cost to the state will be minimal. The fact is that state employees are state government. NDPEA is an association whose members simply want to participate in the discussions that impact their livelihood. To that end, NDPEA provides a service to the state of North Dakota. When our governor wanted input from our state's public employees when putting together a budget proposal, he worked with NDPEA. When you, as legislators, are curious as to how a particular policy or proposal will be received by public employees, you work with NDPEA.

We have nearly 15,000 public employees in our state. They work at places like NDSU and MSU-Bottineau. They work at the State Developmental Center in Grafton and right here in the Capitol building, and our association strives to represent the interests of all of them. Through your continued work with NDPEA, you provide yourselves with a fair amount of coverage on the decisions that you make. Hindsight is 20/20 but foresight seldom is. Our organization serves as an effective resource to policy makers in our state because our dedicated members have done a good job of keeping a finger on the pulse of our state's public employees by staying abreast of their collective concerns and their priorities.

I feel it necessary to point out that precedent for this legislation extends beyond the fact that many other states afford this privilege to their public employee associations. Employees in the field of education and medicine are afforded compensation to do work for their respective professional organizations while being compensated by their primary employer.

Mr. Feist did a commendable job of demonstrating the tremendous commitment that it takes for him to serve our state in the way that he does. However, our president is not the only person in our association who makes personal sacrifices to benefit our state's public employees. When you consider that this bill seeks only 800 hours of paid leave for all of our membership to share, you realize what a humble request this truly is. Our state's 15,000 public employees will work roughly 31 million hours next year. 800 hours is a mere fraction of that total.

Chairman Grande and members of the committee, 800 hours of paid leave is not going to carry a significant fiscal note. It is not going to make any headlines in the Tribune, the Forum, or the Herald. But to our association and the people that make it work, it will mean a great deal.

Thank you for your time, and I will now stand for any questions that you might have.

*Quality Services from Quality People*

# Testimony

Attachment #3 DNP

Chairman and members of Government and Veterans affairs.

My name is Wayne Papke; I am a financial advisor by profession. Today, I'll be speaking on behalf of Citizens for responsible government, a volunteer group based here in Bismarck that seeks to provide taxpayers with information on public policy.

I am here in opposition to HB 1562.

When I take time off, like today, to be here to testify or conduct any politically related activity to influence legislation, I am not paid, nor do I get comp time.

Why should government employees, who are paid by the taxpayer, be allowed the luxury of being given administrative leave time, or paid time, to influence legislation or political directives?

It is a simple subject, taxpayers should be given a direct voice. Taxpayers should not fund paid lobbying efforts from their tax dollar.

This bill is an example of enabling government employees have paid time off to influence legislation through lobbying efforts all at the expense of the taxpayer.

I ask you to oppose and defeat HB 1562.

Proposed Amendments to House Bill 1562

Page 1, line 1, after the first to insert, "provide a legislative council study on the impact of granting administrative leave for state employees participating in public employees' organization activities.

Page 1, line 1, remove "to create and enact a new section to chapter 54-06 of the North Dakota

Page 1, remove lines 2 and 3.

Page 1, replace lines 5 through 18 with:

**SECTION 1. LEGISLATIVE COUNCIL STUDY-ADMINISTRATIVE LEAVE.** The legislative council shall consider studying, during the 2009-10 Interim, the feasibility of an administrative leave program to provide up to eight hundred hours per year of administrative leave for use by executive branch agencies to allow employees who are members of a public employee's organization to attend legislative hearings or meetings, grievance meetings, disciplinary hearings, labor and management meetings, negotiating sessions, or other meetings or activities jointly agreed upon by the chief administrative officer of the employing agency. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

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Testimony on HB 1562  
Before the Senate Government and Veterans Affairs Committee  
Stuart Savelkoul, Executive Director, NDPEA  
March 12, 2009

Good morning Chairman Dever and members of the committee. My name is Stuart Savelkoul and I am the Executive Director of the North Dakota Public Employee Association. I am here today in support of House Bill 1562. I also wish to thank the sponsors of this bill for making state employee issues a priority this session.

I think that the benefits of this bill are numerous and that the static fiscal cost to the state, should such a plan be implemented, would be minimal. The fact is that state employees are state government. NDPEA is an association whose members simply want to participate in the discussions that impact their livelihood. To that end, NDPEA provides a service to the state of North Dakota. When our governor wanted input from our state's public employees when putting together a budget proposal, he worked with NDPEA. When you, as legislators, are curious as to how a particular policy or proposal will be received by public employees, you work with NDPEA.

North Dakota has nearly 15,000 state employees. They work at places like NDSU and Lake Region State College. They work at the State Developmental Center in Grafton and right here in the Capitol building, and our association strives to represent the interests of all of them. Through your continued work with NDPEA, you provide yourselves with a fair amount of coverage on the decisions that you make. Hindsight is 20/20 but foresight seldom is. Our organization serves as an effective resource to policy makers in our state because our dedicated members have done a good job of keeping a finger on the pulse of our state's public employees by staying abreast of their collective concerns and their priorities.

I feel it necessary to point out that precedent for this legislation extends beyond the fact that many other states afford this privilege to their public employee associations, states such as Montana, Minnesota, Alaska, and Kansas. Employees in the field of education and medicine are afforded compensation to do work for their respective professional organizations while being compensated by their primary employer. Actually, any employee is able ask his supervisor for paid leave to go testify at the legislature on a bill that would impact his livelihood. That is, unless that employee works for the state. This bill would grant the supervisors of state employees the latitude to approve such action.

Our president, Gary Feist, has worked 17 years as an auditor in the State Tax Department. He is married and has three daughters. However, in the last year alone, Gary's used 120 hours of annual leave to fulfill his duties as NDPEA President. He would have liked to have been here today, but I believe that Mrs. Feist has designs on some of his leave time being spent with his family. Our president is not the only person in our association who makes personal sacrifices to benefit our state's public employees. When you consider that this bill seeks only 800 hours of paid leave for all of our membership to share, you realize what a humble request this truly is. North Dakota's 15,000 state employees will work roughly 31 million hours next year. 800 hours is a paltry fraction of that total.

Chairman Dever and members of the committee, 800 hours of paid leave would not carry a significant fiscal note. It would not make any headlines in the Tribune, the Forum, or the Herald. But to our association and the people that make it work, it would mean a great deal. I urge you to give this bill a "do pass" recommendation.

Thank you for your time, and I will now stand for any questions that you might have.

*Quality Services from Quality People*

# Testimony