

**2017 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1090**

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1090  
1/6/2017  
26654

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Carmen Hart*

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

Relating to holidays, bids and proposals received by public entities, notification of nonapplicability of veteran's preference, electronic ballot submission, long distance tolls, salary compensation comparison records, state personnel board vacancy filling procedures, secret ballot election rules, and reports of services

### Minutes:

Attachments 1-2

**Chairman Kasper** opened the hearing on HB 1090.

**Pam Sharp**, Director of the Office of Management and Budget, appeared in support. Attachment 1 (1:44-6:27)

**Chairman Kasper:** I have been involved in interim committees where we had surveys like that. The committee asks what type of companies they have surveyed. Would this prohibit you from naming companies without naming the salary range?

**Lynn Hart**, Manager of Classification and Compensation, HR Management Services, appeared to answer the previous question. The common practice would be the companies would be assured that the detailed information would be kept private, but they would be named as a provider of that information.

**Pam Sharp:** Continued with Attachment 1, Section 7 (7:38-9:34).

**Chairman Kasper:** Describe those mentioned boards.

**Pam Sharp:** The State Employee Compensation Commission is a commission that has 4 legislators and 4 elected individuals from state government. The Governor has typically designated the OMB director as the chair. It is required to meet each fiscal year, and we receive information on salary surveys, compensation, health insurance, premiums—all sorts of information related to state employee compensation. Then we make a recommendation to the Governor on the levels of compensation for state employees, and, typically, make a recommendation as to whether the health insurance premium should be continued to be paid by the employer or if the employee should share in the cost of that. The State Personnel

Board is chaired by the HR Administrator Director. They have the authority to change a classification from a classified position to an unclassified position. If there is an appeal for a classification that has gone through the process, the board would review that process and determine if it was appropriately considered and managed and make a determination on that.

**Becky Seibel**, Interim Director for Human Resource Management Services, appeared to give some additional information. They also approve the pay grades for the next biennial cycle for state employees.

**Chairman Kasper**: How is it determined that a state employee is classified compared to unclassified, and what are the ramifications as far as an at-will employer if you are classified compared to unclassified?

**Becky Seibel**: When looking at classified versus unclassified, typically that is requested by the agency. We take a look at the work, what is assigned to the position, and determine if that is work that typically falls within a classified position or if it is unique enough so that it doesn't fit with that group of classified work and then that is removed.

**Chairman Kasper**: What is the process that would have to be gone through by the head of the agency that determines the employee mix in that agency to remove a classified employee? Are they still at will?

**Becky Seibel**: For a classified position, there are specific rules as to the process you would go through to remove. The unclassified positions do not have those requirements. They are pretty much along the lines of what you would think would be in the private sector.

**Pam Sharp**: The legislature also is a way and sometimes does legislate whether a position is an unclassified position. It was the legislature that determined that the Commerce Department is unclassified.

**Chairman Kasper**: The legislature could pass legislation that would say there would be no classified employees in the state?

**Pam Sharp**: Yes.

**Rep. Schneider**: In Section 2, will you be giving notice for veterans in some fashion that the system has changed?

**Pam Sharp**: Of course, we would. We would make that very clear up front as to how veterans would get notified.

**Jim Silrum**, Deputy Director, Secretary of State's Office, appeared in support and presented the amendments and reasons for them. Attachment 2 (16:26-19:04)

**Rep. B. Koppelman**: I thought if deadlines fell on a Saturday or a Sunday, they were either moved to a Friday or Monday. How do we handle Saturday?



**Mr. Silrum:** Because 1-03-01 says Sunday is a holiday, our other statutes have had to compensate for that by saying when a deadline falls on a Saturday or a holiday as defined in 1-03-01. In order to allow Section 1 to stay in this bill, every other agency that would have a filing deadline would have to come in with an amendment to this bill saying they would need to change those other sections in the law that refer back to this so that they are in consistency with that, and we wouldn't want a 100-page bill over this.

**Rep. Schneider:** Every Sunday is not a holiday. It is pretty easy to do a search now and make this the correct language. I would prefer what reality is rather than amend it.

**Mr. Silrum:** There could be a search done, and a bill could be created to correct this. We have always said in our agency that Title I is a title that should be changed only very carefully because of how many things reflect back on that.

**Rep. Schneider:** I understand that explanation, and I don't require that it be done immediately. My preference would be, without demanding anything of you that longer term or maybe by next session, you make the corrections that are necessary to have Sunday not be a holiday.

**Mr. Silrum:** Thank you.

No opposition.

**Rep. Laning** made a motion for a DO PASS on Mr. Silrum's amendments.

**Rep. Steiner** seconded the motion.

A voice vote was taken. Motion carried.

**Rep. B. Koppelman** made a motion for a DO PASS AS AMENDED on HB 1090.

**Rep. Rohr** seconded the motion.

A roll call vote was taken. 14 Yeas, 0 Nays, 0 Absent.

**Rep. C. Johnson** will carry the bill.

**Chairman Kasper** closed the hearing.



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1090

Page 1, line 1, remove "section 1-03-01,"

Page 1, line 4, remove "holidays,"

Page 1, remove lines 9 through 24

Page 2, remove lines 1 through 6

Page 5, line 21, replace "**Rules**" with "**Guidelines**"

Page 5, line 23, overstrike "rules and regulations" and insert immediately thereafter "guidelines"

Renumber accordingly

Date: 1-6-17  
Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1090**

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: 17.8016.01001

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 Laning Seconded By Steiner

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman			Pamela Anderson		
Scott Louser-Vice Chairman			Mary Schneider		
Jason Dockter					
Craig A. Johnson					
Daniel Johnston					
Karen Karls					
Ben Koppelman					
Vernon Laning					
Christopher D. Olson					
Karen M. Rohr					
Vicky Steiner					
Steve Vetter					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

*Voice  
Vote - unanimous  
amendment  
accepted*

Date: 1-6-17  
Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1090**

House 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 Koppelman Seconded By Rohr

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	X		Pamela Anderson	X	
Scott Louser-Vice Chairman	X		Mary Schneider	X	
Jason Dockter	X				
Craig A. Johnson	X				
Daniel Johnston	X				
Karen Karls	X				
Ben Koppelman	X				
Vernon Laning	X				
Christopher D. Olson	X				
Karen M. Rohr	X				
Vicky Steiner	X				
Steve Vetter	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep C. Johnson

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



**REPORT OF STANDING COMMITTEE**

**HB 1090: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1090 was placed  
on the Sixth order on the calendar.

Page 1, line 1, remove "section 1-03-01,"

Page 1, line 4, remove "holidays,"

Page 1, remove lines 9 through 24

Page 2, remove lines 1 through 6

Page 5, line 21, replace "**Rules**" with "**Guidelines**"

Page 5, line 23, overstrike "rules and regulations" and insert immediately thereafter  
"guidelines"

Renumber accordingly

**2017 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1090**

# 2017 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB 1090  
2/10/2017  
Job Number 28175

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Carie Winings*

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

A BILL for an Act to amend and reenact subsection 1 of section 37-19.1-04, subsection 6 of section 44-04-18.4, subsection 8 of section 54-06-25, sections 54-06-26 and 54-44.3-01.2, subsection 2 of section 54-44.3-03, and sections 54-44.3-05 and 54-44.4-02.1 of the North Dakota Century Code, relating to bids and proposals received by public entities, notification of nonapplicability of veteran's preference, electronic ballot submission, long distance tolls, salary compensation comparison records, state personnel board vacancy filling procedures, secret ballot election rules, and reports of services.

### Minutes:

Attachments: 1

**Chairman Poolman:** Opened the hearing on HB 1090.

**Sherry Neas, Director, Central Services Division, Office of Management and Budget:** See Attachment #1 for testimony to explain and in support of the bill.

**(2:45) Senator Bekkedahl:** So, on the receipt of electronic notification through the online recruiting solution system where the employment has been refused may request a hearing, online recruiting, down below it says the request for a hearing must be filed by certified mail; since certified mail is taken out in lines 13 and 14, where else does it say that there will be a mail opportunity besides online for the notification for employment refusal?

**Sherry Neas:** Becky Sicble can address that.

**Senator Bekkedahl:** I bring that up because some people I know as a veteran that have issues, maybe even homeless, don't have access to a way to get to electronic. I want make sure that is covered.

**Becky Sicble, Director, Human Resource Management Services:** We do have an online recruiting solutions system and so all of the state agencies must utilize that to advertise their current job postings. It is on our website in essence. The way that our system is already structured is that if someone wanted to apply for a position, they would have to submit an



electronic application. The one thing to keep in mind is that there are avenues for people to use a computer if they do not have one readily available. They can go to the public library, job services, and our office has a kiosk as well. We require applications to be submitted electronically but we also understand that there are those situations where we need to make certain accommodations or computers available.

**Senator Bekkedahl:** So, this is solely for state agency employment opportunities, is that correct?

**Becky Sicble:** that was the original intent and that is why we actually had the initial language the way that we did. Because the current statute requires that the veterans requesting veteran's preference receive their notification through certified mail and that doesn't necessarily go along the same thought process as the electronic world that we are in and our system does allow for that electronic notification. That is why we strike the certified mail and just have it be electronic notification. After we put the bill together, I had another conversation with Lonnie Wangen at the VA and he said that he was understanding of it. Afterwards he said that the way that it was worded it could be confusing for cities and counties that don't use our system but they are still a public entity and that is why we moved to build in that option for the certified mail so that they can continue their process outside of our system and still be in compliance with the law.

**Senator Bekkedahl:** So this does not eliminate that then?

**Becky Sicble:** No this makes everything right.

**(6:40) Sherry Neas:** Returns to Section 2 on page 2 of testimony.

**(13:46) Jack McDonald, North Dakota Newspaper Association, North Dakota Broadcasters Association:** Testified in a neutral position on the bill. We did have some objections as was indicated, but we worked with OMB and HR and we had our issues addressed. They did work out some reasonable changes.

**Chairman Poolman:** So everyone is happy with the set of amendments?

**Jack McDonald:** Pretty much so.

**Chairman Poolman:** Closed the hearing on HB 1090. (Asked the committee's wishes.)

**Senator Bekkedahl:** All the changes requested are now here in the testimony?

**Chairman Poolman:** Our amendment is on the last page of the testimony.

**Senator Bekkedahl:** Moved Amendments offered by OMB.

**Senator Meyer:** Seconded.

**A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.**

**Motion Carried.**

**Senator Bekkedahl:** Moved a Do Pass As Amended.

**Senator Meyer:** Seconded.

**A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.**

**Motion Carried.**

**Senator Meyer will carry the bill.**

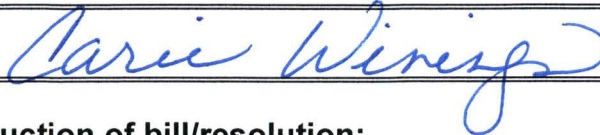
# 2017 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB 1090  
3/9/2017  
Job Number 28942

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

A BILL for an Act to amend and reenact subsection 1 of section 37-19.1-04, subsection 6 of section 44-04-18.4, subsection 8 of section 54-06-25, sections 54-06-26 and 54-44.3-01.2, subsection 2 of section 54-44.3-03, and sections 54-44.3-05 and 54-44.4-02.1 of the North Dakota Century Code, relating to bids and proposals received by public entities, notification of nonapplicability of veteran's preference, electronic ballot submission, long distance tolls, salary compensation comparison records, state personnel board vacancy filling procedures, secret ballot election rules, and reports of services.

### Minutes:

No Attachments

**Chairman Poolman:** We pulled this bill back into committee at the request of Lonnie Wangen from Veterans Affairs. On line 13, he would like us to cross off the word "electronic" because he needs to have the ability to have a date when the people were informed so that the process starts from there forward.

**Senator Bekkedahl:** Moved to Reconsider.

**Senator Meyer:** Seconded.

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Chairman Poolman:** I would entertain a motion for the amendment. We would be adding to the prior amendments, to strike the word "electronic" and unstrike "by certified mail" on line 13 and on line 14 add an "or after mail."

**Senator Vedaa:** So there would be no electronic notification?

**Chairman Poolman:** Through the online it is the electronic version of notifying them.



**Senator Vedaa:** If we strike the electronic notification, are they both going to be accepted?

**Chairman Poolman:** They both are going to be excepted. It will be certified mail or through the online recruiting solution system. The online system is the electronic version of notifying them. Certified mail is the physical way of notifying. They just have to have one or the other.

**Senator Vedaa:** Who requests which one it is going to be.

**Chairman Poolman:** Asked someone from OMB to come up and explain.

**(3:55) Becky Sicble, Interim Division Director, Human Resource Management Services Division, OMB:** You are correct. We are looking for two ways to notify applicants of whether or not they receive the veterans' preference. The certified mail is the physical way. The benefit of certified mail is that there is that date stamp of receipt. The second way is through our online recruiting solution system. If that were to be used, the individual would actually click on a link that they would receive in their e mail. They would log into the secure website and then access the document that way, thereby, providing us a date and time stamp of when they received it. It would be up to the hiring entity or the agency to select which way they proceed.

**Senator Vedaa:** This is not necessarily a benefit to the person applying for the job, it is just two delivery methods?

**Becky Sicble:** You are correct.

**Vice Chairman Davison:** Why did it need to be changed?

**Becky Sicble:** Today we have the online system, whereas every state job is posted to our website and in order to apply for the position you have to do so through our system. The original intent was to work in the possibility for us to notify those applicants through that system, however, considering that not all government entities are on our system, we still have to maintain the certified mail option. Both of them provide the required confirmation of when the applicant was notified.

**Vice Chairman Davison:** So, you are involved in the HR process, but they are not on your system. Is there an example of a department in state?

**Becky Sicble:** I am referring more to the cities and counties. All state agencies do use our system, but because veterans' preference and that law applies broader than just the state agencies, that is why we had to build in the either/or.

**Senator Marcellais:** Should we have change the applicants to 15 days being that we are going certified mail? Should it be extended?

**Becky Sicble:** The certified mail has been included in the law for some time and there has not been any issue with the 15 days. Truly, the change here is allowing us to use the online system for notification.

**Chairman Poolman:** I think it is important to clarify that within 15 calendar days is after the receipt of the certified mail. It is not taking in the consideration the amount of time it takes to send it.

**Senator Bekkedahl:** Moved to Further Amend as outlined by the chair.

**Vice Chairman Davison:** Seconded.

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Bekkedahl:** Moved a Do Pass As Further Amended.

**Senator Meyer:** Seconded.

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Meyer will carry the bill.**

February 10, 2017

CM  
2/10/17

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1090

Page 1, line 13, remove the overstrike over "~~by-certified~~"

Page 1, line 14, remove the overstrike over "~~mail~~" and insert immediately thereafter "or"

Page 2, line 11, overstrike "or proposals"

Page 2, line 11, overstrike "a request for"

Page 2, line 16, replace "an award is made" with "a notice of intent to award is issued"

Page 2, line 16, after the period insert:

"c."

Page 4, line 14, after the underscored period insert "Records naming private businesses from which salary information is collected are open."

Renumber accordingly



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1090

In lieu of the amendments as printed on page 638 of the Senate Journal, Engrossed House Bill No. 1090 is amended as follows:

Page 1, line 13, remove "electronic"

Page 1, line 13, remove the overstrike over "~~by certified~~"

Page 1, line 14, remove the overstrike over "~~mail~~" and insert immediately thereafter "or"

Page 2, line 11, overstrike "or proposals"

Page 2, line 11, overstrike "a request for"

Page 2, line 16, replace "an award is made" with "a notice of intent to award is issued"

Page 2, line 16, after the period insert:

"c."

Page 4, line 14, after the underscored period insert "Records naming private businesses from which salary information is collected are open."

Renumber accordingly

Date: 7/10  
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1090

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description:

OMB Amendment

Attachment #1 pg 4

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

Bekkedahl

Seconded By

Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	Ab				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 5 No 0

Absent 1

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

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

$$\frac{2}{2} = 1$$

## HB 1090

☐ Subcommittee

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 Bekkedall Seconded By Meyer

[illegible]

Absent 1

Floor Assignment Meyer

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

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1090

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 Bekkedahl Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	/		Senator Marcellais	/	
Vice Chairman Davison	/				
Senator Bekkedahl	/				
Senator Meyer	/				
Senator Vedaa	/				

Total (Yes) 6 No 0

Absent 0

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

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



**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1090**

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: (See Below)

Recommendation:

☒ Adopt Amendment (Further)

☐ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions:

☐ Reconsider

☐

Motion Made By

Bekkedahl

Seconded By

Davison

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	<input checked="" type="checkbox"/>		Senator Marcellais	<input checked="" type="checkbox"/>	
Vice Chairman Davison	<input checked="" type="checkbox"/>				
Senator Bekkedahl	<input checked="" type="checkbox"/>				
Senator Meyer	<input checked="" type="checkbox"/>				
Senator Vedaa	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

Line 13 strike "electronic"  
unstrike "by certified mail"  
Line 14 add word "or" after mail.

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1090

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: 17.8016.02002

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

Other Actions: ☐ Reconsider ☐

Motion Made By Bekkedahl Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	✓				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Meyer

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

**REPORT OF STANDING COMMITTEE**

**HB 1090, as engrossed: Government and Veterans Affairs Committee (Sen. Poolman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1090 was placed on the Sixth order on the calendar.

Page 1, line 13, remove the overstrike over "~~by-certified~~"

Page 1, line 14, remove the overstrike over "~~mail~~" and insert immediately thereafter "or"

Page 2, line 11, overstrike "or proposals"

Page 2, line 11, overstrike "a request for"

Page 2, line 16, replace "an award is made" with "a notice of intent to award is issued"

Page 2, line 16, after the period insert:

"c."

Page 4, line 14, after the underscored period insert "Records naming private businesses from which salary information is collected are open."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1090, as engrossed: Government and Veterans Affairs Committee (Sen. Poolman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1090 was placed on the Sixth order on the calendar.

In lieu of the amendments as printed on page 638 of the Senate Journal, Engrossed House Bill No. 1090 is amended as follows:

Page 1, line 13, remove "electronic"

Page 1, line 13, remove the overstrike over "by-certified"

Page 1, line 14, remove the overstrike over "mail" and insert immediately thereafter "or"

Page 2, line 11, overstrike "or proposals"

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Page 2, line 16, replace "an award is made" with "a notice of intent to award is issued"

Page 2, line 16, after the period insert:

"c."

Page 4, line 14, after the underscored period insert "Records naming private businesses from which salary information is collected are open."

Renumber accordingly



2017 TESTIMONY

HB 1090

Attach 1  
1090  
1-6-17

**Testimony HB 1090**  
**Government and Veterans Affairs Committee**  
**January 6, 2017 at 9 a.m.**

Good morning, Chairman Kasper and members of the House Government and Veterans Affairs Committee. I am Pam Sharp, Director of the Office of Management and Budget. HB 1090 is a housekeeping bill to update nine sections of code that relate to OMB functions. Six of the nine sections pertain to HRMS, two pertain to the Central Services Division, and one pertains to the Fiscal Management Division. I will provide a brief review of each section of the bill.

Section 1 removes language stating that every Sunday is a recognized state "holiday". This implies we pay "holiday" pay for every Sunday worked by state employees, which is contrary to our business practice. After submitting this bill, it was brought to our attention the Secretary of State's Office had a concern with removing the Sunday "holiday" designation, due to the effect on their business practices. As a result, we will submit an amendment to reflect the removal of this Section from the bill.

Section 2 provides for electronic notification of requested Veteran's Preference in hiring activities. Current language requires all applicants who designate Veteran's Preference be notified of job posting activities in hard copy via certified mail. This requires extra time for generating the letter and additional cost to send it by certified mail. The Recruiting Solutions system allows for secure electronic notification of these activities.

Section 3 amends the open record law related to when bids and proposals become open records. The intent is to make the open records law related to bids and proposals consistent with state procurement practices laws in North Dakota

Century Code Chapter 54-44.4. Under current procurement law, bids are exempt until the bid opening, and proposals in response to a request for proposal are exempt until award.

Section 4 adds language allowing for electronic voting in State Employee Compensation Commission (SECC) elections. Paper ballots are currently required for each election, which is very costly and time consuming to print and disseminate to all state employees, and then to receive and compile the results. The election process will be more efficient and use less resources if electronic voting is allowed.

Section 5 removes outdated language relating to 'toll calls' state employees are allowed to make when traveling for business purposes. This dated language states an employee can make "one call per day at state expense" when traveling.

Section 6 provides an exemption from public disclosure for any salary information collected from private businesses for the purpose of conducting compensation comparisons. By adding this exemption, private businesses will be more willing to provide salary data to us directly rather than having to utilize a third party to provide the same information protection.

Section 7 amends State Personnel Board (SPB) election procedures to mirror the SECC election procedures. Current language implies another election must be held if a State Personnel Board member cannot complete their term. We are requesting this section to read the same as the SECC election procedures under NDCC 54-06-25(3) "Vacancies among the elected members on the (board) must be filled by the eligible person who received the next highest vote total in the previous election."

Section 8 amends the election procedure statute for the State Personnel Board. Currently the law requires 200 names be submitted with each petition for the SPB; however, the SECC election procedures statute requires 100. We propose the SPB requirement be changed to 100 names for consistency purposes, and the Secretary of State continue his responsibility for election rule oversight.

Section 9 of the bill removes the requirement for state agencies to file an annual report with OMB related to services purchased. The report was established in 2003 when services became subject to procurement requirements. OMB can use technology to obtain information related to agency purchases from procurement and financial systems.

This concludes my testimony. I would be happy to answer any questions at this time.



Attach 2  
1090  
1-6-17

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1090

Page 1, line 1, remove "section 1-03-01,"

Page 1, line 4, remove "relating to holidays,"

Page 1, remove lines 9 through 24

Page 2, remove lines 1 through 6

Page 5, line 23, overstrike "rules and regulations" and immediately after insert "guidelines"

Renumber accordingly

**HB 1090 Amendment**

Senate Government and Veterans Affairs  
Chairman Poolman  
February 10, 2017

Chairman Poolman and members of the committee. I am Representative Jim Kasper, Chairman of the House Government and Veterans Affairs committee. This bill was heard by my committee.

Later, concerns regarding the language of the bill was brought to my attention. These issues were primarily related to open records related to procurement and salary studies.

I coordinated a work group to draft an amendment to be presented when the bill was heard by the Senate.

The amendment before you resolves the open records issues. The Office of Management and Budget will explain the amendment.

Thank you, and I would be glad to answer any questions you may have.

First Engrossment Engrossed House Bill 1090

Senate Government and Veterans Affairs

Chairman Poolman and members of the committee, I am Sherry Neas of the Office of Management and Budget. HB 1090 is an OMB "Clean-Up" Bill.

Section 1 (on page 1) amends the Chapter 37-19.1 related to Veteran's Preference in hiring. The change allows employers to provide veterans with notifications related to their Veteran's Preference using the online recruiting solution and removes the requirement related to certified mail. The proposed amendment restores the option of notification by certified mail.

Section 2 (on page 2) amends Chapter 44-04 related to when bids and proposals become open records. The current law conflicts with state procurement laws under NDCC 54-44.4. The proposed amendment clarifies this section by creating separate sections for bids and proposals.

Section 3 (on page 2) amends NDCC 54-06 State Employee Compensation Commission (SECC) elections. Current law requires paper ballots. The change allows electronic voting.

Section 4 (on page 2) amends NDCC 54-06-26 related to the use of state telephones by state officials and employees. This is dated language in that it states an employee can make "one call per day at state expense" when traveling.

Section 5 (on page 3) amends NDCC 54-44.3-01.2 related to the statewide compensation philosophy statement. We are requesting the addition that any salary information collected from private businesses for the purpose of conducting compensation comparisons be exempt from open records law requirements. The amendment clarifies that the names of vendors who participate in the salary survey are open records.

Section 6 (page 4) amends NDCC 54-44.3-03 related to the State Personnel Board. Existing law implies another election must be held if a State Personnel Board member cannot complete his/her term. This bill amends that law to read the same as SECC election procedures under NDCC 54-06-25(3) "Vacancies among the elected members on the (board) must be filled by the eligible person who received the next highest vote total in the previous election."

Section 7 (page 4) amends NDCC 54-44.3-05 related to the election rules for the State Personnel Board. Currently 200 names must be submitted with each petition for the State Personnel Board; however, the State Employee Compensation Commission requires 100. The bill amends the State Personnel Board law to require 100 names for consistency purposes.

Section 8 (page 5) amends state procurement laws in NDCC 54-44.4 related to agency reporting of procurement services to OMB. This requirement is from 2003. This bill removes the requirement for agencies to submit a report to OMB because this information is now available electronically in PeopleSoft.

## HB 1090 Amendment

Office of Management and Budget

Becky Sicble – Director, Human Resource Management Services, T: 328-4753

Sherry Neas – Director, Central Services Division, T: 328-1726

This bill was heard before the House Gov't & Veterans Affairs Committee. After the hearing, Representative Kasper learned of a few areas of concerns with the bill, and he coordinated with various stakeholders to prepare the proposed amendment.

**Section 1 (page 1)** relates to Veteran's Preference. Not all entities are using the state's online recruiting solution system, so the amendment provides options for notification through the online recruiting system or certified mail.

**Section 2 (page 2)** relates to open records and confidentiality laws. The original bill did not clearly differentiate when bids and proposals become open records. Bidding and Request for Proposals are very different procurement processes. Request for proposal process can include interviews, demonstrations, and revised proposals.

Page 2, Lines 11-14. Amended (a) removes all references to proposals from subsection (a) to clarify that bids become open records when opened.

Page 2, Lines 15-16. The original subsection (b) stated proposals were exempt records "until an award is made." The amendment states proposals become open records "when a notice of intent to award is issued." So, proposals are confidential during the evaluation process, and open when the award decision is announced.

The new subsection (c) states names of entities that submit bids or proposals are open.

**Section 5 (pages 3-4)** amends Chapter 54-44.3 related to Compensation philosophy.

The amendment is necessary to specifically identify what salary study information is an open record.

Page 4, Lines 12-13. The original bill inserted a new sentence. Any salary information collected from private businesses for the purpose of conducting compensation comparisons is exempt from public disclosure.

The amendment adds a new sentence, "Records naming private businesses from which salary information is collected are open."

Providing the names of participating private businesses in salary surveys follows established HR best practices as it demonstrates the scope and range of salary survey results.

It is well-known that private businesses rely on salary surveys to ensure their staff are appropriately compensated. OMB is wanting to be able to do the same thing in-house; however, without providing some protection on the salary data, businesses will not provide them with any data. They need data protection be given to businesses in order for them to participate.



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1090

Page 1, line 13, remove the overstrike over "~~by certified~~"

Page 1, line 14, remove the overstrike over "~~mail~~" and insert immediately after "or"

Page 2, line 11, overstrike "or proposals"

Page 2, line 11, overstrike "a request for"

Page 2, line 16, replace "an award is made" with "a notice of intent to award is issued"

Page 2, lines 16-18, overstrike "Records included with any bid or proposal naming and generally describing the entity submitting the proposal are open."

Page 2, line 17, insert "c. Records included with any bid or proposal naming and generally describing the entity submitting the proposal are open."

Page 4, line 14, after the period insert "Records naming private businesses from which salary information is collected are open."

Renumber accordingly