

2023 SENATE WORKFORCE DEVELOPMENT

SB 2198

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

SB 2198
2/9/2023

Relating to state employee family medical leave.

3:43 PM **Chairman Wobbema** called the hearing to order. **Senator Wobbema, Axtman, Elkin, Larson, Sickler** and **Piepkorn** are present.

Discussion Topics:

- Committee action

3:43 PM **Molly Herrington, Interim Chief People Officer and Director of Human Resource Management Division and Budget (OMB)** introduced in favor #20331

3:44 PM **Senator Axtman** moved **DO PASS**.

3:48 PM **Senator Sickler** seconded.

3:48 PM Roll call vote.

Senators	Vote
Senator Michael Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	Y
Senator Diane Larson	Y
Senator Jonathan Sickler	Y
Senator Merrill Piepkorn	Y

Motion Passed 6-0-0

Chairman Wobbema will carry SB 2198.

3:49 PM **Chairman Wobbema** closed the hearing.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2198: Workforce Development Committee (Sen. Wobbema, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2198 was placed on the Eleventh order on the calendar. This bill affects workforce development.

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2198

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2198
4/3/2023

Relating to state employee family medical leave.

Chairman Louser called meeting to order 11:08 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Discussion Topics:

- FMLA action
- Federal requirements
- State alignment
- ND National Guard
- Unpaid leave

In Favor:

Molly Herrington, Chief People Officer, Human Resource Management Services, ND Management and Budget, #27198

Chairman Louser adjourned the meeting 11:28 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2198
4/11/2023

Relating to state employee family medical leave.

Chairman Louser called meeting to order 10:13 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Discussion Topics:

- Small agencies
- Small businesses
- Military language
- Further definition
- Recruiting workforce
- Service time

Representative Ruby moved a do not pass.
Representative Kasper seconded.

Representative Ruby rescinds his motion.

Molly Herrington, Chief People Officer, HMRS, Office of Management and Budget, (no written testimony)

Representative Boschee moved to adopt proposed amendment language, #27444.
Representative Thomas seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	AB
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	AB
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y

Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 12-0-2

Representative Koppelman moved to further adopt to change Page 2, line 13 from 26 weeks to 12 weeks, #27475

Representative Thomas seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	N
Representative Josh Boschee	N
Representative Josh Christy	AB
Representative Hamida Dakane	N
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	N
Representative Jonathan Warrey	Y

Motion passed 9-4-1

Representative Koppelman moved a do pass as amended.

Representative Boschee seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	AB
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y

Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 13-0-1

Representative Wagner will carry the bill.

Chairman Louser adjourned the meeting 10:59 AM

Diane Lillis, Committee Clerk

April 11, 2023

DK
181
4-11-23

PROPOSED AMENDMENTS TO SENATE BILL NO. 2198

Page 1, line 22, replace "health condition" with "injury or illness under the definition of serious injury or illness for a military service member or veteran as adopted by the United States department of labor"

Page 2, line 11, after "to" insert "a combined"

Page 2, line 13, after the underscored period insert "An employee using leave under this subsection only may use paid leave for up to twelve workweeks. The remaining balance from the combined twenty-six workweeks under this subsection must be unpaid."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2198: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2198 was placed on the Sixth order on the calendar.

Page 1, line 22, replace "health condition" with "injury or illness under the definition of serious injury or illness for a military service member or veteran as adopted by the United States department of labor"

Page 2, line 11, after "to" insert "a combined"

Page 2, line 13, after the underscored period insert "An employee using leave under this subsection only may use paid leave for up to twelve workweeks. The remaining balance from the combined twenty-six workweeks under this subsection must be unpaid."

Renumber accordingly

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2198
4/12/2023

Relating to state employee family medical leave.

Chairman Louser called meeting to order 11:14 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Member absent: Representative Christy

Discussion Topics:

- Current leave
- Entitlement

Chairman Louser asked to reconsider this bill. After some committee discussion it was decided to leave the bill as amended, any issues can be dealt with by the conference committee.

Chairman Louser adjourned the meeting 11:23 AM

Diane Lillis, Committee Clerk

2023 CONFERENCE COMMITTEE

SB 2198

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

SB 2198
4/21/2023
Conference Committee

Relating to state employee family medical leave.

2:34 PM **Chair Axtman** opened the conference committee meeting. **Senators Axtman, Larson, Piepkorn** and **Representatives Wagner, J. Johnson, Schauer** are present.

Discussion Topics:

- Proposed amendment
- Conference committee decision

Chair Axtman calls for discussion.

Representative Wagner proposed amendment. #27797

Committee discussion SB 2198.

2:49 PM **Molly Herrington, Chief People Officer, HRMS, Division of the Office of Managements and Budget**, provided information verbally.

Representative Wagner moved House recede from House amendments and amend by adding in House section 1, amendments and the word combined in subsection 3.

Senator Larson seconded the motion

Roll call vote-motion carried 5-1-0.

Representative Wagner is the House bill carrier.

Senator Larson is the Senate bill carrier.

2:59 PM **Chair Axtman** closed the conference committee meeting.

Patricia Lahr, Committee Clerk

April 21, 2023

MG
4/21/23
101

PROPOSED AMENDMENTS TO SENATE BILL NO. 2198

That the House recede from its amendments as printed on page 1660 of the Senate Journal and page 1908 of the House Journal and that Senate Bill No. 2198 be amended as follows:

Page 1, line 22, replace "health condition" with "injury or illness under the definition of serious injury or illness for a military service member or veteran as adopted by the United States department of labor"

Page 2, line 11, after "to" insert "a combined"

Renumber accordingly

Date: 4/21/2023
Enter Vote # 1

**2023 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2198

Senate Workforce Development Committee

- Action Taken** **SENATE accede to House Amendments**
 SENATE accede to House Amendments and further amend
 HOUSE recede from House amendments
 HOUSE recede from House amendments and amend as follows
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Wagner Seconded by: Senator Larson

Senators	4/21		Yes	No	Representatives	4/21		Yes	No
Axtman, Chair	X		Y		Wagner, Chair	X		Y	
D. Larson	X		Y		J. Johnson	X			N
Piepkorn	X		Y		Schauer	X		Y	
Total Senate Vote			3		Total Rep. Vote			2	1

Vote Count Yes: 5 No: 1 Absent: 0

Senate Carrier Larson House Carrier Wagner

LC Number 23.0685 . 01002 of amendment

LC Number 23.0685 . 03000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 23.0685.01002
Senate Carrier: Larson
House Carrier: Wagner

REPORT OF CONFERENCE COMMITTEE

SB 2198: Your conference committee (Sens. Axtman, Larson, Piepkorn and Reps. Wagner, J. Johnson, Schauer) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 1660, adopt amendments as follows, and place SB 2198 on the Seventh order:

That the House recede from its amendments as printed on page 1660 of the Senate Journal and page 1908 of the House Journal and that Senate Bill No. 2198 be amended as follows:

Page 1, line 22, replace "health condition" with "injury or illness under the definition of serious injury or illness for a military service member or veteran as adopted by the United States department of labor"

Page 2, line 11, after "to" insert "a combined"

Renumber accordingly

SB 2198 was placed on the Seventh order of business on the calendar.

TESTIMONY

SB 2198

TESTIMONY OF

Molly Herrington, Chief People Officer, Human Resource Management Services

Chairman Wobbema and committee members, I am Molly Herrington, Chief People Officer and Director of Human Resource Management Services (HRMS) Division of the Office of Management and Budget (OMB). I am here today to ask your support for SB 2198.

First, I would like to thank Senator Dever and Senator Roers, for introducing this bill. It was introduced at the request of OMB.

SB 2198 introduces clean-up language to amend N.D.C.C. 54.-52.4-02, Family Leave, to align with Family Medical Leave Act (FMLA) requirements related to military caregiver leave. FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. The military caregiver section provides for a unique allowance of 26 weeks rather than the traditional 12 weeks offered through what we've traditionally seen with FMLA. According to the US Department of Labor, this is how the updated FMLA language reads related to military caregivers:

Military caregiver leave allows eligible employees to take up to 26 weeks of leave in a single 12-month period to care for a family member (spouse, son or daughter, parent, next of kin) who is a covered service member/veteran with a serious injury or illness. Military caregiver leave is available to an eligible employee once per service member, per serious injury or illness.

SB 2198 simply brings North Dakota Century Code family leave language into alignment with what is already required at the federal level through the Family Medical Leave Act.

Chairman Wobbema and committee members, this concludes my testimony. I ask your support for SB 2198. I would be happy to answer any questions.

TESTIMONY OF

Molly Herrington, Chief People Officer, Human Resource Management Services

Chairman Louser and committee members, I am Molly Herrington, Chief People Officer and Director of Human Resource Management Services (HRMS) Division of the Office of Management and Budget (OMB). I am here today to ask your support for SB 2198.

First, I would like to thank Senator Dever and Senator Roers, for introducing this bill. It was introduced at the request of OMB.

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SB 2198 simply brings North Dakota Century Code family leave language into alignment with what is already required at the federal level through the Family Medical Leave Act.

Chairman Louser and committee members, this concludes my testimony. I ask your support for SB 2198. I would be happy to answer any questions.

Dear Chairman Louser and members of the House IBL Committee,

Thank you for the thoughtful conversation on [SB 2198](#). I appreciate the opportunity to provide additional details as follow up to Monday's hearing. **SB 2198 specifically addresses the inclusion of military caregiver leave** as required under the federal Family Medical Leave Act (FMLA). The remainder of FMLA is already included under N.D.C.C. 54.-52.4-02. Compliance with FMLA federal requirements exist regardless and the amendments proposed in SB 2198 are simply to make state law consistent to avoid confusion.

Language Clarification

The committee discussed potentially adding language to clarify military caregiver leave. If this is the committee's desire, might I just suggest the following:

- Pg. 1, line 22 – strike “health condition” and add “**injury or illness as defined by the US Department of Labor's definition of serious injury or illness for a military service member or veteran.**”
- Pg 2., line 11 – add “**a combined**” so the line reads “under subdivision f of subsection 1 is limited to **a combined** twenty-six workweeks of leave in any”
 - o This would address that under FMLA, an eligible employee is entitled to a combined total of 26 workweeks of military caregiver leave and leave for any other FMLA-qualifying reason in this single 12-month period, provided that the employee may not take more than 12 workweeks of leave for any other FMLA-qualifying reason during this period.

FMLA and Military Caregiver Leave Background

The [Family Medical Leave Act](#) (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Eligible employees are entitled to:

- Twelve workweeks of leave in a 12-month period for:
 - o the birth of a child and to care for the newborn child within one year of birth;
 - o the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
 - o to care for the employee's spouse, child, or parent who has a serious health condition;
 - o a serious health condition that makes the employee unable to perform the essential functions of his or her job;
 - o any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on “covered active duty;” or
- Twenty-six work weeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

To be eligible for Family Medical Leave Act (FMLA), an employee must:

- Have worked for your employer for at least 12 months
- And have at least 1250 hours of service with your employer in the 12 months before you take leave

[Code of Federal Regulations addressing 825.127](#) - leave to care for a covered servicemember with a serious injury or illness (military caregiver leave)

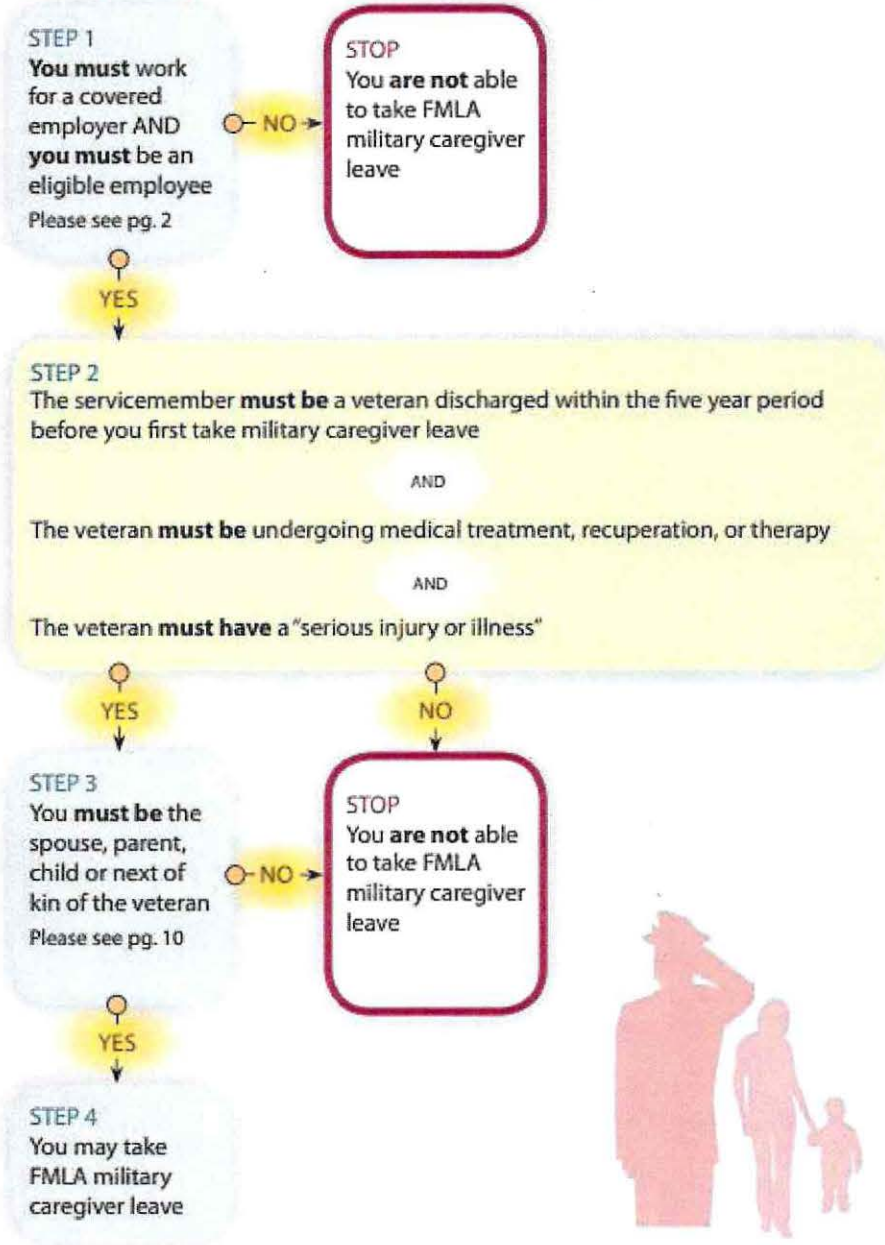
Department of Labor FMLA Military Guide

- Pg 14: addresses definitions of ***who is a covered service member*** and ***what is a serious injury or illness of a veteran.***
- Pg 15: addresses ***single 12-month period*** and ***multiple instances of military caregiver leave***

- Pg 16: flow chart to determine if military caregiver leave can be taken

Military Caregiver Leave

Military Caregiver Leave Taken for a Veteran



If you have additional questions or would like me to be present for committee work on this bill, please let me know.

Thank you,

Molly Herrington

Interim Chief People Officer

23.0685.01001
Title.02000

Adopted by the Industry, Business and Labor
Committee

April 11, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2198

Page 1, line 22, replace "health condition" with "injury or illness as defined by the United States department of labor definition of serious injury or illness for a military service member or veteran"

Page 2, line 11, after "to" insert "a combined"

Page 2, line 13, after the underscored period insert "An employee using leave under this subsection may only use paid leave for up to twelve workweeks. The remaining balance from the combined twenty-six workweeks under this subsection must be unpaid."

Renumber accordingly

The state leave sharing program (NDCC 54-06-14.7) does not qualify as a form of paid leave to be taken under this provision.