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ROLL NUMBER

DESCRIPTION

1474

2001 1

GOVERNMENT AND VETERANS AFFAIRS

HB 1474

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1474 A

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/08/01

Tape Number	Side A	Side B	Meter #
1	X		2762-END
		X	0-698
Committee Clerk Signature <i>Robin D. Small</i>			

Minutes:

REP. M. KLEIN called the hearing to order with all committee members present.

In favor:

REP. RALPH E. METCALF

Please see attached testimony.

REP. M. KLEIN asks if this would be a stipulation of someone's supervisor, if the amendment and the bill was passed. Would this supersede the other one? REP. METCALF replies yes, the employees would not lose the benefits. REP. DEVLIN comments that there are employees that are almost irreplaceable. REP. DEVLIN states to the committee that he and his wife advertised for over four months to try and hire someone to come in when the legislature was to begin.

Neutral:

JOHN BJORNSON, LEGISLATIVE COUNCIL STAFF

BJORNSON is only here to explain the bill to the committee.

In favor:

REP. MERLE BOUCHER, DISTRICT 9

Please see attached testimony. BOUCHER talks about some legislators that have lost their jobs for serving on the assembly. Asks the committee to please support this bill.

Neutral:

GREG SUND, CITY ADMINISTRATOR OF DICKINSON

SUND wants to bring it to the attention of the committee that there needs to be looked at the employers as well as the employees.

Oppose:

BEV NIELSON, NDSBA

NIELSON states to the committee that this bill does not work for teachers and the schools. It is not fair to the students to have a teacher for only half of the years. States that they need to keep the students in mind, not the teachers that have ran for the office.

REP. BELLEW asks what do they suggest the schools do. NIELSON states that they should not allow negotiations. REP. KLEMIN states that the local community generally knows if they are voting for a teacher at election time, don't they? NIELSON comments that she is sure that he is right about that. REP. HUNSKOR comments that the best quality for the kids is what needs to be looked at.

Being there was no further testimony in favor or in opposition the hearing was then closed.

Action was not taken at this time.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1474 B

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/15/01

Tape Number	Side A	Side B	Meter #
1	X		5334-END
		X	0-368
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes:

COMMITTEE WORK:

REP. M. KLEIN called the hearing to order. HB 1474 was heard on Feb. 8, 2001.

ACTION:

All members were present. General discussion. REP. HAAS motioned to accept the amendments at hand, seconded by REP. BELLEW. A voice vote was taken with the majority passing it.

REP. BELLEW motioned for a DO PASS AS AMENDED, seconded by REP. WIKENHEISER.

The roll call vote was taken with 15 YES, 0 NO and 0 ABSENT AND NOT VOTING.

The motion carries. The CARRIER of the bill is REP. BELLEW.

HB 1474: DO PASS AS AMENDED 15-0

CARRIER: REP. BELLEW

✓R
2/15/01

HOUSE AMENDMENTS TO HB 1474 HOUSE GVA 2/15/01
Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 54-03-27 of the North Dakota Century Code, relating to a leave of absence from employment or service in the legislative assembly."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-27 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-03-27. Service in the legislative assembly - Leave of absence from public employment. The executive officer in charge of a state agency, department, or institution or the governing body of any political subdivision or any other employer in this state may grant a leave of absence from employment to a full-time employee of that governmental entity or of that employer who is a member of the legislative assembly for service during any regular or special session of the legislative assembly and for attendance at a meeting of the legislative council or any of its committees. The leave of absence may be without pay, and the employer may reduce or eliminate the payment of any additional benefits normally due the employee while the employee is performing legislative service. ~~A state agency, department, or institution or a political subdivision if the leave of absence is granted, the employer~~ may not terminate the employment of an employee solely due to the fact that the employee is absent from employment as the result of service in the legislative assembly."

Renumber accordingly

Date: Feb. 15th, 2001

Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 474

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Subcommittee on _____
or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Accept the Amendments

Motion Made By Haas Seconded By Bellew

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN			REP KROEBER		
VICE CHAIR GRANDE					
REP BELLEW					
REP BRUSEGAARD					
REP CLARK					
REP DEVLIN					
REP HAAS					
REP KASPER					
REP KLEMIN					
REP MEIER					
REP WIKENHEISER					
REP CLEARY					
REP HUNSKOR					
REP METCALF					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: Feb. 15th, 2001

Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1474

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass As Amended

Motion Made By Bellew Seconded By Wikenheiser

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP KROEBER	✓	
VICE CHAIR GRANDE	✓				
REP BELLEW	✓				
REP BRUSEGAARD	✓				
REP CLARK	✓				
REP DEVLIN	✓				
REP HAAS	✓				
REP KASPER	✓				
REP KLEMIN	✓				
REP MEIER	✓				
REP WIKENHEISER	✓				
REP CLEARY	✓				
REP HUNSKOR	✓				
REP METCALF	✓				

Total (Yes) 15 No 0

Absent _____

Floor Assignment Rep. Bellew

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

REPORT OF STANDING COMMITTEE

HB 1474: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1474 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 54-03-27 of the North Dakota Century Code, relating to a leave of absence from employment for service in the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-27 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-03-27. Service in the legislative assembly - Leave of absence from public employment. The executive officer in charge of a state agency, department, or institution or the governing body of any political subdivision or any other employer in this state may grant a leave of absence from employment to a full-time employee of that governmental entity or of that employer who is a member of the legislative assembly for service during any regular or special session of the legislative assembly and for attendance at a meeting of the legislative council or any of its committees. The leave of absence may be without pay, and the employer may reduce or eliminate the payment of any additional benefits normally due the employee while the employee is performing legislative service. ~~A state agency, department, or institution or a political subdivision~~ If the leave of absence is granted, the employer may not terminate the employment of an employee solely due to the fact that the employee is absent from employment as the result of service in the legislative assembly."

Renumber accordingly

2001 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1474

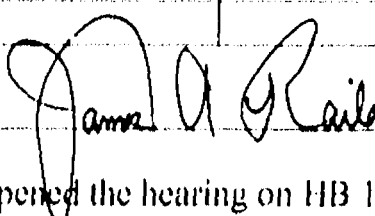
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1474

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date March 15, 2001

Tape Number	Side A	Side B	Meter #
1		X	23.3-46.1
2		X	33.1-35.2
Committee Clerk Signature 			

Minutes: Chairman Krebsbach opened the hearing on HB 1474 which relates to a leave of absence from employment for service in the legislative assembly. Appearing before the committee was **Representative Ralph Metcalf**, District 24, prime sponsor of the bill. A copy of his written testimony is attached. **Senator C. Nelson** inquired about line 15 of the bill, wondering if the bill needed to be amended. It says the employer may not terminate, you emphasized employee. She indicated she had misunderstood. **Senator C. Nelson** indicated she had a question as to the prevalence of the problem at the present time. Representative Metcalf indicated that he was told that there were two legislators that were released in past history. If this bill had been in code they would not have been able to be released by their employer when they got home from the legislature. **Senator C. Nelson**, so in other words the essence of your bill is in the last three lines. Representative Metcalf indicated yes, but they also have to be in agreement before that legislator comes to the legislature. Yes, I as an employer agree with you that you should be gone for this time period. In talking with people that are aware of the

circumstances of the legislators that were released. The employer gave them the agreement yes go to the legislature and then when they got back, we don't need your services anymore.

Senator Dever, indicated that he remembers during the Vietnam War that when a person was drafted, went into the service, came back he was guaranteed his job back. Is that the same situation now if somebody enlists in the military. Do you know? **Representative Metcalf** indicated that he has the book that the military actually uses. It is called employer and guard member reserve rights and responsibilities. Yes, they are given a lot of rights, not only their rights of reemployment but also their rights of benefits, their rights of vacation, their rights of everything. The rights that they had before they left. There were no further questions.

Representative Merle Boucher, minority leader of the house, district 9. He presented written testimony which is attached. **Senator C. Nelson** indicated that the way she reads this, she looks back to a former representative from her district who as a result of noncompliance, had the agreement and she thinks that is key in itself, but do you think there are going to be some who take a broad view of what you think solely due to the fact means. If there is a reduction in force or where there are other people that are also losing, but when it is one person that gets zapped then it looks really suspicious. How do you see people interpreting solely in line 16?

Representative Boucher indicated that is a very intriguing question. Your question is perhaps a reason we have a legislature to begin with. Especially when you look at why we have such a large workload. It is because we do pass laws and we do think we are doing the right thing and his experience has been people are creative and people are devious and people are going to sit back there and try to interpret a lot of what we do to suit their own particular situation and need. Will this bill safeguard things 100%. I doubt it, but it is a step in the right direction. It is a message out there that if you did agree to something commitments are made and they should be

Page 3

Senate Government and Veterans Affairs Committee

Bill/Resolution Number HB 1474

Hearing Date March 15, 2001

followed. There were no further questions. **Bev Nielson**, with the North Dakota School Boards Association. She indicated that they are in support of HB 1474 in its current form. There were no questions from the committee. There was nothing further. **Chairman Krebsbach** closed the hearing at this time. **Senator Wardner** made a motion for a Do Pass, seconded by **Senator T. Mathern**. Roll Call Vote indicated 6 Yeas, 0 Nays, 0 Absent or Not Voting. **Senator Wardner** will carry the bill.

Date: 3/15/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1474 (Engraved)

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Wardner Seconded By Sen. T. Mathern

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Wardner

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

REPORT OF STANDING COMMITTEE (410)
March 15, 2001 4:52 p.m.

Module No: SR-45-5776
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1474, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1474 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1474

TESTIMONY SUPPORTING

HB 1474

Chairman Klein and members of the House Government and Veterans Affairs Committee. I am Ralph Metcalf, Representative from District 24 encompassing Barnes County.

For forty-two years I was a member of the North Dakota Army National Guard with the majority of my service in military personnel and civilian personnel management. During this time I became well versed in the rights of the reservist concerning re-employment and other benefits upon returning to civilian employment following periods of military duty. Some of you may recall hearing the title "Soldiers and Sailors Relief Act". This was the instrument used to help service personnel when they were called to active duty and following that duty when they returned to their home and former employment. Several revisions of this law were made with the latest being the Uniformed Services Employment and Reemployment Rights Act (USERRA). By this act, more than 4,500 North Dakota Guard and Reserve Members are guaranteed certain rights involving employment and reemployment.

You may ask how this affects the North Dakota Legislature. It really doesn't except that it started me thinking about providing some protection to the members of this legislative body in the important areas of continuation of employment and benefits. I contacted the legislative council and John Bjornson was assigned to help me research this matter, looking at the possibility of submitting a bill to accomplish this task. Mr. Bjornson found that nine states currently have laws

concerning this right and the law in Minnesota was challenged and determined to be constitutional.

I and Mr. Bjornson reviewed the various state laws and I felt that it would be best to try to develop a law with basic similarities to the USERRA. Thereupon, Mr. Bjornson took the USERRA and from it developed HB 1474. Before I put the bill into its current form, I asked several members of the legislature to review it for possible changes. I am was delighted to receive recommendations from Rep. Klemin and several of these have been incorporated in the bill we have here today.

At this time I would like to have Mr. John Bjornson explain the various sections of the bill. Mr. Chairman, with your permission, I would ask Mr. Bjornson to come to the podium.

Testimony for HB 1474
For the House Government and Veteran Affairs Committee
Representative Matthew Klein - Chair
Prepared by Representative Merle Boucher

Good morning Chairman Klein and members of the House Government and Veteran Affairs Committee. For the record I am Merle Boucher a member of the House of Representatives elected to represent District Nine.

Members of the committee House Bill No. 1474 may appear to be a rather quiet bill. Interestingly this is a very significant piece of legislation.

House Bill No. 1474 has the same significance of a citizen's protection to be called to jury duty. The bill, is enacted to safeguard a citizen's employment rights if they opt to serve in the legislature.

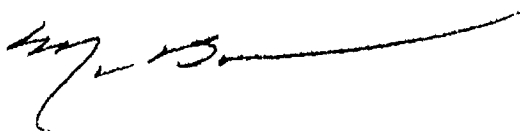
During my tenure in the legislature, I have observed occasions where people have encountered problems with their employment as a result of their having served in the legislature. The fact of the matter is, I have seen on occasions where people have actually lost their jobs because they have served.

As a legislature leader, who is very involved in recruiting potential candidates to run for legislative positions, I find that one of the primary reasons given to me for people not wanting to run for office is the concern for affecting or losing their employment.

House Bill No. 1474 is a good piece of legislation. The bill addresses an issue that has been ignored. People should have the opportunity, if they choose, to run for public office without fear of retribution for their job and/or livelihood.

I would ask the members of the Government and Veteran Affairs Committee to give House Bill No. 1474 a favorable recommendation. Thank you.

Respectfully submitted by:

A handwritten signature in dark ink, appearing to read 'Merle Boucher', with a long horizontal flourish extending to the right.

Representative Merle Boucher

secretary of state shall request of that member whether that member wants to receive a set of the code under this section. The secretary of state shall deliver a set of the code to each member who elects to receive a copy of the code. A legislator who elects to receive a set of the code is entitled to current supplements and volumes as provided in section 46-04-03 to maintain the code during the legislator's service. The code received by a legislator under this section is not subject to section 46-04-04. After a legislator's service in the legislative assembly is terminated, the secretary of state shall inform the legislator that the legislator may elect to retain the set of the code or to return the set at the expense of the secretary of state. If the legislator elects to retain the set, the secretary of state shall inform the legislator how to obtain a subscription to maintain the legislator's code.

54-03-24. Administrative Code distributed to each legislator - Retention. Each member of the legislative assembly is entitled to receive a current set of the North Dakota Administrative Code as provided in section 28-32-03.2. The legislator is entitled to current supplements and volumes as provided in section 28-32-03.2 to maintain the code during the legislator's service. The code received by a legislator under this section is not subject to section 46-04-04. After a legislator's service in the legislative assembly is terminated, the secretary of state shall inform the legislator how to obtain a subscription to maintain the legislator's code.

54-03-25. Bills and amendments affecting workers' compensation fund - Actuarial Impact statement. The workers compensation bureau shall review any legislative measure affecting workers' compensation benefits or premium rates to determine whether the measure will have an actuarial impact on the workers' compensation fund. If the bureau determines that the measure will have an actuarial impact on the fund, the bureau shall submit, before the measure is acted upon, an actuarial impact statement prepared, at the expense of the bureau, by the actuary employed by the bureau. The bureau shall review any amendment affecting workers' compensation benefits or premium rates and shall submit, before the amendment is acted upon, either a statement prepared by the bureau, stating that the amendment is not expected to have any actuarial impact on the workers' compensation fund, or an actuarial impact statement prepared, at the expense of the bureau, by the actuary employed by the bureau.

54-03-26. Personal computers and associated software used by legislators - Fee - Continuing appropriation. Notwithstanding any other provision of law, a member of the legislative assembly who is assigned a computer may use that computer and its associated equipment and software for any use that is not in violation of section 16.1-10-02 upon payment of a computer usage fee established by the legislative council.

54-03-27. Service in the legislative assembly - Leave of absence from public employment. The executive officer in charge of a state agency, department, or institution or the governing body of any political subdivision may grant a leave of absence from employment to a full-time employee of that governmental entity who is a member of the legislative assembly for service during any regular or special session of the legislative assembly. The leave of absence may be without pay, and the employer may reduce or eliminate the payment of any additional benefits normally due the employee while the employee is performing legislative service. A state agency, department, or institution or a political subdivision may not terminate the employment of an employee solely due to the fact that the employee is absent from employment as the result of service in the legislative assembly.

TESTIMONY SUPPORTING

HB 1474

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concerning this right and the law in Minnesota was challenged and determined to be constitutional.

I and Mr. Bjornson reviewed the various state laws and I felt that it would be best to try to develop a law with basic similarities to the USERRA. Thereupon, Mr. Bjornson took the USERRA and from it developed HB 1474.

During the hearing on this bill in the House Government and Veterans Affairs committee, testimony provided by those opposed made it very obvious this bill in its original form would not be accepted. It was also pointed out that there was a problem with Section 54-03-27 of the current law pertaining^{ing} to this matter. So it was decided to amend the bill to limit it to correction of the problem while incorporating some employment protection for legislators.

With this, I present to you Engrossed HB 1474. This engrossment accomplishes two tasks:

First, it expands responsibility to all employers in the state, including private and government. Lines 7 through 14 have the purpose of showing that the employer is in agreement with the employee by granting him a leave of absence to do his legislative duties.

Second, the last sentence in current law was interpreted by legal experts to say that employees could not be terminated. Period. To correct this problem some verbage on lines 14 and 15 was deleted and the term "if the leave of absence is granted, the employee" may not be terminated soley due to absence from employment while attending his legislative duties.

Although it does not give us the employment/reemployment rights that more than 4500 current National Guard and Reserve personnel currently enjoy, it is a step to protect those legislators whose employers may change their minds concerning involvement of their employees in this legislative process.

That concludes my testimony and I will be happy to answer your questions.

Testimony for HB 1474
For the Senate Government and Veteran Affairs Committee
Senator Krebsbach - Chair
Prepared by Representative Merle Boucher

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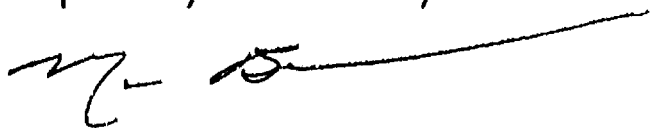
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I would ask the members of the Government and Veteran Affairs Committee to give House Bill No. 1474 a favorable recommendation. Thank you.

Respectfully submitted by:

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Representative Merle Boucher