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DESCRIPTION

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Richard Costa  
Operator's Signature

10/16/03  
Date

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS  
HB 1474

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Salvatore Riccardi  
Operator's Signature

10/16/03  
Date

# 2003 HOUSE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. HB 1474

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2-07-03

Tape Number	Side A	Side B	Meter #
2	x		11.9-36.6
Committee Clerk Signature <i>Gregory Burke</i>			

Minutes: Chairman Klein called the meeting to order. All committee members were present.

Representative Potter testified in favor of HB 1474, and also is the sponsor of the bill.

This bill is a very simple bill changing one little bit, and let you know it has to do with sick leave and the existing plan for sick leave for state employees with my understanding that they get 8 hours per month, would basically be one day a month. And you add those together you would get 12 days a year. With a maximum 1 1/2 days a month as stated in the language. With that sick leave 40 hours of that sick leave can be used for family illness, so 40 hours being 5 days you can separate that out into hours you don't have to take full days. One other thing that you should know is that employees can carry over sick leave to year to year. They can have it accumulate year after year. What this bill would do is just remove that 40 hour limit. And why do you think we would consider that? Is to me if you have 8 hours that you can be using, 5 days a year, say you are a younger employee that has 2 young children, when one got sick the next one got sick, for me it would have been difficult dealing with just the 5 days a year granted some years there

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*Salvatore Riccardi*  
Operator's Signature

*10/16/03*  
Date

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1474

Hearing Date 2-07-03

weren't as sick. Older employees might have a parent that need some kind of care, it would be nice to have the flexibility to use those hours, then what is currently available. To me this is an employee friendly type bill.

Representative Klein: where do you see that 40 hour limit?

Representative Potter: Its in a separate section from this section.

Representative Devlin: How many hours can you roll over, is there a limit to the numbers you can accumulate?

Chris Runge, Executive Director, North Dakota Public Employees Association: It is unlimited.

Virginia Rivinius, SPHR, OMB Central Personnel Division: appeared in opposition of HB 1474.

(SEE ATTACHED TESTIMONY).

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1474

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2-13-03

Tape Number	Side A	Side B	Meter #
2	x		9.3-19.8
Committee Clerk Signature <i>Joey Rinker</i>			

Minutes: Chairman Klein: called the hearing to order on Hb 1474. All committee members werer present.

Representative Potter: presented a rough draft amendment to committee. Basically this is a hog house, if you remember the testimony on this, Kris Runge thought that it would be better in a different section of law. And when I had talked to Legislative Council on this, they were the ones that suggested the original section, when I talked to them again, they couldn't even find the other section. All this does is change the unlimited sick leave, it changes the 40 hours of leave to 80 hours of leave so it does restrict the amount, talks about who they can use it for, that is really all it does. They can use up to 40 hours a year for sick leave. Which can be used for child, spouse or parent.

Representative Haas: the reason this bothers me, is that since I've been working and was eligible to receive any kind of benefits, I have always felt those leaves were to benefit the employees period. And somehow over the years that has been stretched and manuvered to include extended

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House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1474

Hearing Date 2-13-03

family and people want to get paid for unused sick leave, its a benefit, a benefit in my mind is to be used if you need it, not something that can be converted into something else. I have a great deal of difficulty with this.

Representative Sitte: If I had a choice, I would give them a ½ percent pay raise, rather than this, because I tend to agree with Representative Haas, that sometimes we can see abuse.

Representative Winrich: made a motion to AMEND HB 1474, as presented by Representative Potter.

Representative Potter: SECOND the motion to amend HB 1474.

Motion carried.

Representative Grande: made a DO NOT PASS motion on HB 1474 as amended.

Representative Tieman: SECOND the do not pass motion as amended on HB 1474.

VOTE: 10-YES 4-NO 0-ABSENT

Representative Grande: will carry the bill to the floor.

Meeting adjourned.

**FISCAL NOTE**  
Requested by Legislative Council  
02/17/2003

Amendment to: HB 1474

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal impact cannot be determined. It is unknown the amount of family sick leave that would be used for the salaries involved.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Elleen Holwegner	<b>Agency:</b>	OMB
<b>Phone Number:</b>	328-1666	<b>Date Prepared:</b>	02/18/2003

*John Costa*  
Operator's signature

*10/16/03*  
Date

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**FISCAL NOTE**  
Requested by Legislative Council  
01/21/2003

Bill/Resolution No.: HB 1474

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The fiscal impact cannot be determined. It is unknown the amount of family sick leave that would be used for the salaries involved.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Eileen Holwegner	Agency:	OMB
Phone Number:	328-1666	Date Prepared:	01/28/2003

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Volcosta Rickford  
Operator's Signature

10/16/03  
Date

30688.0101  
Title.0200

Prepared by the Legislative Council staff for  
Representative Potter  
February 12, 2003

VR  
2/13/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1474 GVA 2-13-03

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 54-52.4-03 of the North Dakota Century Code, relating to the use of sick leave by state employees to care for a parent, spouse, or child.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-52.4-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.4-03. Use of other available leave for care of parent, spouse, or child.** An employer that provides leave for its employees for illnesses or other medical or health reasons shall grant an employee's request to use that leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition. An employee may take not more than ~~forty~~ eighty hours of leave under this section in any twelve-month period. The employer shall compensate the employee for leave used by the employee under this section on the same basis as the employee would be compensated if the leave had been taken due to the employee's own illness."

Renumber accordingly

Date: 2-13-03  
Roll Call Vote #:

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1474**

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

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

Action Taken

Move to amend HB 1474

Motion Made By

Rep. Winrich

Seconded By

Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein			B. Amerman		
Vice Chairman B.B. Grande			L. Potter		
W.R. Devlin			C. Williams		
C.B. Haas			L. Winrich		
J. Kasper					
L.R. Klemin					
L. Meier					
M. Sitte					
W.W. Tieman					
R.H. Wikenheiser					

Total (Yes) 13 No 0

Absent \_\_\_\_\_

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

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

Date: 2-13-03  
Roll Call Vote #: 1474

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30688.0101

Action Taken D. N. P. as amended

Motion Made By Rep. Grande Seconded By Rep. Tieman

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman		X
Vice Chairman B.B. Grande	X		L. Potter		X
W.R. Devlin	X		C. Williams		X
C.B. Haas	X		L. Winrich		X
J. Kasper	X				
L.R. Klemin	X				
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Grande

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

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Salvatore Riccardi  
Operator's Signature

10/16/03  
Date

REPORT OF STANDING COMMITTEE (410)  
February 14, 2003 8:32 a.m.

Module No: HR-29-2698  
Carrier: Grande  
Insert LC: 30688.0101 Title: .0200

**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 NOT PASS** (10 YEAS, 4 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 54-52.4-03 of the North Dakota Century Code, relating to the use of  
sick leave by state employees to care for a parent, spouse, or child.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-52.4-03 of the North Dakota Century  
Code is amended and reenacted as follows:

**54-52.4-03. Use of other available leave for care of parent, spouse, or  
child.** An employer that provides leave for its employees for illnesses or other medical  
or health reasons shall grant an employee's request to use that leave to care for the  
employee's child, spouse, or parent if the child, spouse, or parent has a serious health  
condition. An employee may take not more than ~~forty~~eighty hours of leave under this  
section in any twelve-month period. The employer shall compensate the employee for  
leave used by the employee under this section on the same basis as the employee  
would be compensated if the leave had been taken due to the employee's own illness."

Renumber accordingly

2003 TESTIMONY

HB 1474

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Yolanda Richardson  
Operator's Signature

10/16/03  
Date

**Minnesota Law**

Chapter Title: EMPLOYMENT: WAGES, CONDITIONS, HOURS, RESTRICTIONS  
Section: 181.9413

Text:

181.9413 Sick or injured child care leave.

(a) An employee may use personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's child for such reasonable periods as the employee's attendance with the child may be necessary, on the same terms the employee is able to use sick leave benefits for the employee's own illness or injury. This section applies only to personal sick leave benefits payable to the employee from the employer's general assets.

(b) For purposes of this section, "personal sick leave benefits" means time accrued and available to an employee to be used as a result of absence from work due to personal illness or injury, but does not include short-term or long-term disability or other salary continuation benefits.

HIST: 1990 c 577 s 4; 1991 c 268 s 2

About 12 years ago Minnesota passed a law which mandates that employers who have paid sick leave allow their employees to use sick leave for taking care of sick children. North Dakota does not have such a law. Some progressive employers do have such a policy. As employers the legislators could lead the way toward doing the right thing for state employees.

**CPD****Central Personnel Division  
Guide to Personnel Laws and Rules****OMB****Family and Medical Leave**

The Family and Medical Leave Act of 1993 and the North Dakota Family Leave Act of 1989 allow up to 12 weeks or 16 weeks, respectively, of unpaid leave for reasons as specified below. The provision of state law or federal law that provides the more generous benefit is the one that is listed.

The State is considered a single public agency employer.

Family leave is an unpaid leave of absence available to an employee for the birth, adoption or foster placement of a child; or for the serious health condition of a parent, child, spouse or employee. (Federal)

Family leave is available to all employees who have been employed for at least 12 months and at least 20 hours per week during the year preceding the start of the leave. (State)

The maximum length of leave available in a twelve-month period is 12 weeks for an employee's serious health condition and 16 weeks for all other authorized reasons. The leave is prorated for part-time employees. (State)

If both spouses are employed by the state, the combined leave may not exceed the applicable 12 or 16 weeks. Reasonable and practical notice must be provided to the agency; the needs of the agency shall be given reasonable consideration. (State)

Leave may be taken consecutively, intermittently, or on reduced work schedule. (Federal)

When an employee is aware of the need for FMLA leave, the employee is required to provide the employer with notice 30 days in advance. When leave is not foreseeable, the employee can give notice as soon as he or she is aware of the need. Notice can be verbal or in writing, in person or by telephone. (Federal)

Birth, adoption or foster care leave must be taken within 12 months of the event. (Federal)

When leave is completed, the employee must be returned to the same position or a position with equivalent compensation and benefits. If a layoff would have caused the position to have been lost, this reinstatement provision does not apply. (State)

An agency must continue health benefits at the same level and coverage had the employee not taken leave. (Federal)

Medical certification may be required by the agency. However, it is limited to stating only that: a serious health condition exists, the date of commencement and probable duration, or the medical factors to the best of the provider's knowledge. (State)

**CPD****Central Personnel Division  
Guide to Personnel Laws and Rules****OMB***yes branch*  
**Sick Leave**

Sick leave is an approved absence from work with pay when an employee is ill or in need of medical care. Up to 40 hours may be used as family sick leave, in any twelve-month period, when there is an illness or medical need in the employee's family (see page 12).

Sick leave is earned by each regular employee of the state at the standard rate of eight hours a month.

Sick leave accrues on a prorated basis for a fraction of a month.

All accrued unused sick leave may be carried over from one year to the next.

If an employee transfers from one agency to another, the employee retains all accumulated, unused sick leave hours.

If an employee leaves the service of the state after ten continuous years of state employment, the employee must be paid for 10% of their accrued unused sick leave.

If an employee leaves and returns to the service of the state within one year, the employee must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid.

Temporary employees do not earn sick leave.

**Recommendations:**

Unless otherwise authorized by the employing agency, sick leave should be used in increments of one hour.

**References:**

NDCC 54-06-14; 54-52.4-03

NDAC 4-07-13

(Return to Index)

**OMB**OMB Home Page**CPD**Central Personnel**NORTH  
DAKOTA**ND State Home Page

<http://www.state.nd.us/cpers/HR/Docs/lawguide/page33.html>

1/16/2003

IP

**Testimony on HB 1474  
Virginia Rivinius, SPHR  
OMB - Central Personnel Division  
February 7, 2003**

Mr. Chairman and members of the Committee, I am Virginia Rivinius, a senior personnel officer with the Central Personnel Division.

I am testifying in opposition of HB 1474. There is currently provision in statute (NDCC 54-42.4-03) and administrative code for employees to use up to 40 hours of sick leave per calendar year to care for a child, spouse, or parent who is ill or to assist them in obtaining services related to their health or well being. HB 1474 presents concerns to the Central Personnel Division for the following reasons:

- The bill places no limit on the amount of sick leave that an employee can use to care for an illness or medical need in the employee's family. There is a business need for agencies to manage unplanned absences to the extent possible. With unlimited use of sick leave to care for a family member, in addition to other types of leave employees may take, an agency may be significantly impacted by employees' unplanned absences to care for a family member.
- Under this bill, an unlimited amount of sick leave could be used for potentially any type of illness or medical need of a family member, thereby causing an employee to be away from work for any number of reasons.
- The bill does not define the relationships that would be considered 'family,' and therefore, the leave potentially could be used to care for family members far removed from the employee, such as nieces, nephews, uncles, aunts, cousins, etc.
- Leave is an unfunded liability, meaning that agencies do not budget dollars for leave usage by employees. Under a tight budget, a difficult burden may be placed on an agency if it had to hire temporary replacements or pay overtime for regular staff to accomplish the work during additional unplanned and unlimited absences under this bill.

There are a number of leave options now available to employees for care of a family member who is ill or needs medical attention. These are:

- The 40 hours of sick leave I referred to earlier,
- Accrued annual leave (vacation time),
- Donated (shared) leave, and
- Family and Medical Leave (unpaid).

We recommend a Do Not Pass on HB 1474 as presented.

This concludes my testimony, and I am available to answer any questions committee members may have.

Jo Costa Richardson  
Operator's Signature

10/16/03  
Date