

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1029

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB1029**

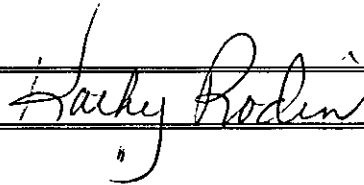
House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 01/16/2009

Recorder Job Number: 7130

Committee Clerk Signature



Minutes:

Chairman Grande: Open the hearing on HB1029.

Jeff Nelson, Staff Attorney with Legislative Council and serve on the Council for

Employee Benefits Programs Committee: the committee that is recommending H1029. The

Employee Benefits Programs Committee (IBPC) is a statutory committee, it has jurisdiction

over public employee retirement programs, health insurance programs and retiree health

insurance programs. In addition, the committee has responsibility for overview of the

retirement statutes. This past interim the LC chairman assigned additional responsibilities to

the committee to study employee benefits provided by state agencies which are not specifically

authorized by law or not consistent among agencies. The first thing the IBPC did was conduct

a survey of state agencies. The committee learned that almost all agencies gave employee

service awards or employee recognition, reward or incentive programs. Most follow

administrative code 4-07-18 which requires agencies to recognize certain service

anniversaries of classified employees by implementing a service award program. Many

agencies provide employer paid tuition for higher education coursework for employees,

however, the policies are not uniform. Most agencies pay employee membership dues for

professional organizations and some pay service club dues. Very few pay employer paid

benefits under sections 54-52-27, 52-29-50.609.2 and approximately ½ of agencies provide family leave under the NDCC. The committee received a survey on comparable states and considered several bill drafts. The first of which is HB1029. In review of HB1029, I would like to remind the committee that my comments should not be construed as favorable or against. HB1029, but my purpose is to review of HB1029 and to answer any questions considering the proposal. **Section 1** of the bill draft deals with state employee service awards. And we create a new section chapter 54-06 of the NDCC. This section will provide that each state agency may establish rules or policies for employee recognition and service award programs. Classified agencies would be subject to rules adopted by HR management services and approved by the state personnel board and the LC's administrative rules committee. Any other agency of the executive, legislative or judicial branch, may adopt similar rules and policies to insure uniformity and consistency in state government. Each non-classified state agency establishing rules and policies for employee recognition or service award programs will be required to submit the rules and policies to the OMB for review and comment and after addressing any comments of the OMB, to submit those rules and policies to the LC's administrative rules committee. The interim committee included any reporting requirement along with the statute governing the rules and policies. The reporting requirements begin on line 18 of page 1. **Section 2** creates a new section for 54-06 dealing with employer paid tuition. It is essentially the same as section 1 with the exception begins on line 23 that there is repayment provision for an employee who receives paid tuition and leaves within 2 years of receiving tuition will repay that tuition on a prorated basis. **Section 3** deals with employer paid professional organization membership and service club dues and tracks the other sections we just went over with a reporting requirement and a provision that the expenditures are deemed compensation and not a gift. **Section 4** is a new section to 54-06 that provides an expenditure

made pursuant to rule or policy adopted pursuant to sections 1 through 3 of this Act is not a criminal offense.

Chairman Grande: Committee, the documents that Mr. Nelson spoke of are very lengthy and I will get a copy so you can see it. Mr. Nelson, do you have extra copies?

Jeff Nelson: We may have extra copies. I will get those after the hearing.

Rep. Amerman: You had a department that had employees that were classified, but the directors and officers were not under and were not classified. Are they entitled to diplomacy?

Jeff Nelson: Are you talking about tuition and things in this bill.

Rep. Amerman: Right. Whatever is covered in this bill.

Jeff Nelson: I think when you talk about classified service agency would be subject to the rule so I think it wouldn't talk about the employee as an individual, we'd be talking about the agency. So if the agency is subject to the classified rules, then if there was an elected official or a director that was exempt in some places to ensure uniformity in government that individual would be subject to those rules.

Rep. Winrich: In Section 3, can you give us some examples of professional membership and service club membership that would be required to do business?

Jeff Nelson: I can use myself as an example. To be a staff attorney to LC, the position requires that I be a licensed attorney, so our office pays my state bar association of ND dues. The director of LC may make a determination that it benefits the state if I'm a member of the American Bar Association. Currently, they do not pay those dues, but theoretically, the AG may say it is beneficial and put it in the policy that it is beneficial to the state.

Rep. Winrich: Would this also apply to licensing fees for other professions like engineering , accountancy and so on?

Jeff Nelson: Yes, I believe the same policy would apply.

Rep. Winrich: I'm struggling with membership in a service club might be required to do business.

Jeff Nelson: The interim received testimony from various state agencies, like Department of Commerce, Tourism, or promotional agencies that it might be beneficial for the state to pay a service club due in a community or organization.

Rep. Wolf: Service clubs are like Eagles, Elks, VFW, Moose, Rotary, that type stuff?

Jeff Nelson: We didn't define the term "service club" but in my determination Eagles, Elks would be fraternal organization as opposed to Kiwanis or Chamber of Commerce, Rotary. Something business, as opposed to social.

Rep. Wolf: Are both classified and non-classified entitled to service club dues?

Jeff Nelson: I think that is the hope of the interim committee. We struggled with the difference between the classified system which is subject to HR administrative rules and the personnel system and the non-classified, but yet try to structure saying that the non-classified still have to submit their rules and policies to OM for review and the Administrative Rules Committee. Maybe the administrative rules will determine that yes we need to have a difference here. But the intent is uniformity and consistency.

Rep. Schneider: The bill provides for employee perks, but the FN had \$0, do you know what the expected increase in expenditures will be?

Jeff Nelson: I don't know that it provides any **new** perks. I think the committee was trying to get a handle on what is out there and provide some structure. The committee learned that some agencies provide paid tuition and some do not.

Chairman Grande: With employer paid tuition, **that** is within their budget. If it is in the budget to do that, it isn't an ongoing appropriation they get unless they have budgeted for and have had it approved. You will later on see a bill that addresses that issue.

Rep. Schneider: Are we just codifying what we are doing already?

Jeff Nelson: Yes and perhaps making it more uniform.

Rep. Nathe: If I understand correctly, some of the agencies are doing this and some are not, is that correct?

Jeff Nelson: Yes

Rep. Nathe: If the agencies that are not doing it and have it in their budget, why are they not doing it if they have it in their budget?

Jeff Nelson: Under normal circumstances they could. If we have Agency A that has historically been providing employee paid tuition and Agency B that hasn't, if Agency B thinks this bill is a directive from the legislative assembly that they establish an employer paid tuition then I suppose they would approve that in their next budget and seek those funds.

Chairman Grande: What we found when looking at those it was just the larger agencies that found it within their budget to do this type of thing. It's the smaller agencies that we're having a problem making these kind of decisions in general. With this we were hoping to get something uniform together so they would know how or what they would do if they were wanting to offer that. Part of that discussion goes to what I commented to Rep. Schneider, there is a separate bill that addresses that and is going to ask for some money for that purpose for the smaller agencies. That will be up to the committee later, whichever committee that goes to. If that follows through we will see it addressed.

Rep. Meier: In the past, what was the reporting requirement for these additional opportunities in state agencies? What have they done historically in the past?

Jeff Nelson: I think that was one of the issues the interim committee faced; the uniformity issue. By reporting by rules of the legislative assembly because the money would have been in the budget. Again the classified system was following the service award policy and OMB,

during the interim HR Management Services adopted employee paid tuition rules and again all agencies are subject to audit, so the State Auditor's office would have identified it in the auditor's report what was happening. But as far as a complete picture of what was happening, I don't think that existed.

Chairman Grande: Any other questions. Thank you Mr. Nelson.

Ken Purdy, Classification & Compensation Manager, HR Management Services Division of OMB: Mr. Purdy provided a two-page written testimony, **see attachment #1.**

Chairman Grande: Committee, does anyone have any question? Thank you Mr. Purdy.

Anyone else wish to speak in favor of HB1029? Opposition? Neutral?

William Goetz, Chancellor of the ND Univ. System: Mr. Goetz provided a two-page written testimony, **see attachment #2.**

Chairman Grande: Any questions for Chancellor Goetz?

Rep. Froseth: Were your amendments presented to the Employee Benefits Interim Committee?

Chancellor Goetz: No, they were not.

Chairman Grande: Any other questions. Thank you. For? Against? Neutral? Closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1029

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 01/22/09

Recorder Job Number: 7609

Committee Clerk Signature

Lou Engelson

Minutes:

Chairman Grande: You'll remember in 1029 we had discussion from the University Systems that they would like to be exempt from that. In doing some more checking, there is an issue with legislative council trying to follow along with the sections. Basically what this is going to do is take the non-classifieds with the executive branch out. It's the service club tuition. I had legislative council look at it because legislative council wanted to have the exemption put in to the legislative branch because we don't do the administrative rule the same as the rest of them. In addressing Goetz's thing, legislative council ran into the same issue, and a lot of it has to do with their administrative rule clauses that we have inside this particular bill. To address some concerns though, if we let higher ed out of this, then we don't have to justify any of its tuition spending. I have spoken with Appropriations higher ed and they will address it on an amendment that there is a reporting mechanism and that they establish guidelines for reimbursement if they leave without staying for a certain period of time. What was discussed in the employee benefits committee that DOT has this process down. They've been doing it really well. What we are going to be looking at doing, HRMS has a copy of the way they are doing it and they are going to try and model that throughout all the agencies and get it all into one area that we're all doing it the same way and that you don't have that deviation from it.

One of the problems, section 2 especially, employer paid tuition. Council feels that if we stay in on this as legislators, not that we need to have special exemptions, but every time you go on a trip, that's going to have to have all these special justifications. Our counsel travels to NCSL and CSG and some of the reporting areas are really difficult for them to want to track. They are kind of looking at can we not have to participate in that of which makes sense since they don't go through the same administrative process as the rest. That's the amendment.

Rep. Conklin: Is that the proposed amendment?

Chairman Grande: That's the proposed amendment that includes what Mr. Goetz had and it includes council's together. One amendment.

Rep. Conklin: Is it excluding the universities then?

Chairman Grande: Yes. And for some reason the way they have wording, classified stuff versus non-classified. I don't understand all of that myself. Jim Smith himself drafted this so I'm going to trust him. That it does what we are trying to get at.

Rep. Conklin: If we exclude the University System, what I'm worried about is the professors and the administration are going to get bonuses and raises, but there's a whole other section of university employees at the bottom end, and they're going to get nothing.

Chairman Grande: That is true except that they will have to follow some form of guidelines. We're going to just put higher ed, that they need to put together a reporting mechanism. It does make sense to separate this all out. We heard these all through the interim, and higher ed showed up for nothing, and they received the notifications. It's frustrating they want to amend every bill now. But we will comply and let them work on this if the committee wishes.

Rep. Kasper: Chancellor Goetz's testimony refers to the constitution. Did the council tell you that constitutionally we had to exempt higher ed, or is that not a constitutional issue?

Chairman Grande: I did not ask them. When council came and asked about being exempt themselves, I mentioned higher ed having the concerns, and they said there probably is some great concerns. I didn't show him the testimony. I'm still under the philosophy its constitutional until it's proven unconstitutional if we say it's constitutional. We pass it, it's constitutional until somebody proves it otherwise. It also does lend to the fact there is the round table and we don't want to interfere with the University System on some of these issues. They are in a different situation when the university is at their disposal. And it is a part of their recruitment plan to have the ability to offer tuition. For us to go through and tell them every single one of their employees has to have this written up and done differently is a burden that is probably pushing it a little too far. But I think we could ask that they at least have a plan in place.

According to the way Mr. Goetz answered the question, they don't. That was the concern. If it is an executive branch agency having employees in classified services, I think it has something to do with that wording. (A brief recess was taken as Jim Smith, legislative council, was called down to explain the amendment.) Mr. Nelson, I understood this had to do with legislative council and higher ed being able to be taken out of 1029. Is that what these words do, or not?

Jeff Nelson: I have the amendment. I had them place it in the bill. As you will recall from yesterday, HB 1029 deals with state employee service awards, employer-paid tuition, employer-paid professional organization, membership and service club dues and creates three new sections. The amendments would exempt higher education, the legislative branch, and the judicial branch from the requirements of sections 1, 2 and 3 but from the reporting requirements that the, first of all, in line 7 and 8 each state agency, department, or institution may establish rules or policies for employee recognition and service award programs. So we start from that premise. Then we move on to executive branch agencies having employees in classified service are subject to rules adopted by North Dakota human resource management

services and approved by the state personnel board and the legislative council's administrative rules committee. So then they view this as a tree and we have the classified service, those agencies would be subject to rules adopted by HRMS, subject to approval by the state personnel board and the administrative rules committee.

Chairman Grande: Human resource management services and the state personnel board. That's two different things? Aren't they kind of the same thing?

Jeff Nelson: No. They are separate. Any other agency, department, or institution of the executive, legislative, or judicial branch may adopt similar rules or policies to ensure uniformity and consistency in state government. That is the judicial branch, legislative branch, higher ed and non-classified agencies. So we're going to say that other agencies not subject to rules by HRMS can adopt similar rules or policies to ensure uniformity.

Chairman Grande: So who will they report to with those rules, or how will we know they did it?

Jeff Nelson: The non-classified executive branch agencies again would submit their rules for comment to OMB and then after addressing those comments, they would submit those to the administrative rules committee.

Rep. Kasper: Who are non-classified agencies?

Jeff Nelson: Elected and appointed officials would not be subject to classification, workers compensation, Bank of North Dakota, department of commerce.

Rep. Boehning: Game and fish?

Jeff Nelson: Game and fish, although a special fund agency is still subject to the classified service. We could prepare what we call a special engrossment so you could see the amendments in the bill. If you view this as a tree, we have the classified executive branch agencies. Those agencies would be subject to HRMS, personnel board and administrative

rules committee. Then we have the non-classified executive branch. They would not be subject to HRMS, but they would submit their rules to OMB and to the administrative rules committee. Then we would exempt those agencies that are not required to report which are the judicial branch, legislative branch. Line 13 or 14 reads: Notwithstanding any other provision of law, each executive branch state agency, department, or institution, except an institution of higher education, having employees who are not in classified service and establishing rules or policies for employee recognition and service award programs shall submit the rules and policies to the office of management and budget for review and comment. So we're exempting higher ed from that requirement. We split the executive branch between classified and non-classified and exempt legislative branch, judicial branch and higher ed.

Chairman Grande: So when we exempt those three, they fall under the OMB ad rule? Are we slipping them in there.

Jeff Nelson: I don't believe so because line 13 and 14 reads: Notwithstanding any other provision of law, each executive branch state agency, department, or institution, except an institution of higher education, having employees who are not in classified service and establishing rules or policies for employee recognition and service award programs shall submit the rules and policies to the office of management and budget.

Chairman Grande: Then we go into the next set which is under tuition.

Jeff Nelson: I believe the amendment is correct.

Chairman Grande: Acts the same way. Classified, unclassified and then they put the exemption in the exact same place after institution and that follows all the way through to line 24. On page 2, line 24, is that a correction we're making? To add the word reported? Why does reported have be there?

Jeff Nelson: The reporting requirement only applies to the executive branch except higher ed. So when we say reported, that exempts the legislative and judicial branches because they are not required to report.

Chairman Grande: Page 3, line 5 doesn't work at all unless I'm putting it after the wrong each. It should be after the second each. So within 60 days after the close of each biennial period, each executive branch state agency, department, or institution, except an institution of higher education, providing employer-paid professional organization membership. That takes higher ed out there. Are we not taking out council from there, or doesn't that matter? Did Mr. Smith think we could handle the employer-paid professional organization stuff?

Jeff Nelson: If we go back to line 2 of that section on page 3: Each state agency, department, or institution may pay employee membership dues for professional organizations and membership dues for service clubs when required to do business. That encompasses essentially all of state government. That's the language granting the authority. The next portion of the section, the reporting requirement it says that within 60 days at the close of each biennial period, each executive branch state agency, department or institution, except an institution of higher education, providing employer-paid professional organization membership and service club shall file. So the reporting requirement only applies to classified and non-classified executive branch agencies and the legislative branch, judicial branch and higher education is exempt.

Rep. Kasper: This appears that we are actually giving all the agencies the ability to make their own rules subject to approval by the legislative council?

Jeff Nelson: Yes. I would say that the classified service would be uniform under HRMS rules, but other agencies, non-classified executive branch, higher ed, legislative and judicial could each adopt their own rules which may be different.

Chairman Grande: Currently we have agencies that have this ability to do these various things. Some agencies don't use it. Some do. The idea is by doing this we are going to get some sense of uniformity to it. We are going to know what they're doing and we are going to track it. Currently it's not trackable. By not being trackable, you have agencies that might do things that the auditor's office doesn't approve of. We want to make sure our agencies will not be hung out to dry. We are trying to keep this from being a criminal act.

Rep. Conklin: Do you believe that the University System will be brought under a different place.

Chairman Grande: I hope so. Anything else from the committee? We have HB 1029 with amendments laying in front of us. What do you wish to do about the amendments?

Rep. Dahl: I move the amendments.

Rep. Nathe: I'll second.

Chairman took a voice vote and the amendments are accepted.

Rep. Boehning: I move a do pass as amended.

Rep. Wolf: Second.

The clerk called the roll.

12 yes, 0 no, 1 absent. Rep. Boehning was assigned to carry the bill.

FISCAL NOTE
Requested by Legislative Council
12/08/2008

Bill/Resolution No.: HB 1029

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Minimal impact, if any. Generally agencies spending money in these areas are using existing budgeted funds.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Laurie Sterioti Hammeren	Agency:	OMB-HRMS
Phone Number:	328-4735	Date Prepared:	12/10/2008

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1029

Page 1, line 8, replace "Classified" with "Executive branch agencies having employees in classified service"

Page 1, line 9, remove "service agencies"

Page 1, line 13, replace "nonclassified" with "executive branch"

Page 1, line 14, after "institutions" insert ", except an institution of higher education, having employees who are not in classified service"

Page 1, line 18, after "committee" insert "for approval"

Page 1, line 19, replace "this section" with "rules approved by the administrative rules committee"

Page 2, line 7, replace "Classified service agencies" with "Executive branch agencies having employees in classified service"

Page 2, line 12, replace "nonclassified" with "executive branch" and after "institution" insert ", except an institution of higher education, having employees who are not in classified service and"

Page 2, line 16, after "committee" insert "for approval"

Page 2, line 18, after the second underscored comma insert "under rules approved by the administrative rules committee"

Page 2, line 24, after "tuition" insert "reported"

Page 3, line 5, after "each" insert "executive branch" and after "institution" insert ", except an institution of higher education,"

Renumber accordingly

VK
1/24/09

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Renumber accordingly

Date: 1-22-09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1029

House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP as Amended

Motion Made By Boehning Seconded By Wolf

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

Total (Yes) 12 No 0

Absent 1

Floor Assignment Boehning

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

REPORT OF STANDING COMMITTEE

HB 1029: Government and Veterans Affairs Committee (Rep. Grande, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1029 was placed on the Sixth order on the calendar.

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Renumber accordingly

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1029

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1029

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/26/09

Recorder Job Number: 9810

Committee Clerk Signature <i>Kate Owen</i>
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Minutes:

Jeff Nelson: Attorney for the Legislative Council. This bill creates 4 new sections to 54-06 in the Century Code and relates to service awards, tuition, professional service dues. The bill is engrossed and he explained the changes that the bill went through.

Senator Oehlke: The payback for the tuition, how do you do that? Garnish wage? Take out of last paycheck?

Jeff Nelson: I guess I don't know to the extent that it might become an issue. It would depend upon what the state law would say. It would be up to the state to start collection action.

Senator Oehlke: Would that require a signature on a form beforehand?

Jeff Nelson: I believe that would be the process that the state employee would sign an agreement with the employing agency.

Senator Horne: Can you give us an example of state employee service award.

Jeff Nelson: What it is is an award recognizing years of service.

Ken Purdy: Classification and Compensation Manager HR Management Services Division-Office of Management and Budget. See attached testimony #1.

Senator Dever: If it is not a gift then what is it?

Ken Purdy: Page 2 line 2, made for public purpose and cannot be seen as a gift for purposes of section 18 of article 10 of the constitution. I think that covers the constitutional interpretation.

Laurie Sterioti-Hammeren: Our amendments deal with the taxable issues and as we talked with the fiscal staff they inform us that some of the guidelines identify some of these things as benefits for taxable purposes rather than compensation, and that is why we are proposing the amendments.

Senator Nelson: Do we pay the entire bar association dues for the assistant Attorney Generals?

Ken Purdy: I believe the practice varies on payments of that type. Mr. Smith from the auditor's office would know better than I. But it is not a uniform practice.

Senator Nelson: What is the definition of tuition? Any class or classes needed for the job or is it for any class that the individual would want to take?

Ken Purdy: I think that it is more specific, the policies that agencies have that the classes be job related. I know some policies state that courses that relate to their work will be fully reimbursed, if the course is not part of the core then half of the tuition will be paid.

Senator Horne: Is the review from OMB a new requirement? If so why is it in the bill?

Ken Purdy: Because adopting the policies by these other agencies is a new requirement. As to why, I think that the committee wanted uniformity.

There was no one else to testify on HB 1029 so Chairman Dever closed the public hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1029

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/26/09

Recorder Job Number: 9870

Committee Clerk Signature

Kate Oliver

Minutes:

Senator Nelson: We have a concern that section 4 gives too much latitude.

Laurie Sterioti-Hammeren: I am wondering if the sections don't they revert back to the chapters of the Century Code? Doesn't it talk about policy as to when you can pay it and when you can't?

Section Nelson: What if we removed section 4.

Laurie Sterioti-Hammeren: The action that they take has to be in compliance with the rules of the agency. As long as you are acting in the framework of the policy then you would not be subject to criminal charges.

Senator Cook: Yesterday we heard testimony from an agency head in which he admitted to breaking the law. I don't think that it was blatant but I think his actions are exempt. But that was on a different bill.

Laurie Sterioti-Hammeren: HRMS took a position against what he did. He had to stand in front of the committee and justify his actions.

Senator Dever: I did visit with Jeff Nelson about 1030 where we are talking about the 25% limitation. Regarding the 25% limitation, I don't think it is appropriate for us to subject the judicial branch to oversight in that by the executive branch. As long as we appropriate the

dollars they decide how to utilize those, it is the same thing with legislative branch, if legislative council decides that employees deserve bonus then it is up to them.

Senator Cook: In 1029 it makes it very clear as far as the separation of powers.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1029

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/26/09

Recorder Job Number: 10406

Committee Clerk Signature

Kate Oliver

Minutes:

Senator Dever: We have amendments from OMB that involved the word 'compensation' as it relates to the constitution.

Senator Cook: I talked to the tax dept about that issue and they said that the amendments that OMB proposed will be just fine.

Senator Dever: Jeff Nelson said that he thought that they satisfied with the constitutional requirements.

A motion was made by Senator Cook to move the amendments for 1029 that were presented by OMB with a second by Senator Horne. Roll was taken and the motion passed 5-0.

Senator Cook made a motion for a do pass as amended with a second by Senator Horne.

Senator Nelson: If we are all in agreement with what 'pursuant' means I think that I am ok with it. I just didn't want someone to go hog wild and get off for robbing the bank, so to speak.

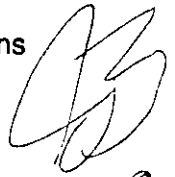
Senator Dever: I talked to someone with HRMS, and they said that this was important to the bill, just to provide assurance to agency heads. As long as they follow this policy they are ok.

Would you feel more comfortable with 'consistent with?'

There was no further discussion and roll was taken. The motion passed 5-0 with Senator Dever carrying the bill to the floor.

90243.0401
Title.0500

Adopted by the Government and Veterans
Affairs Committee
March 6, 2009


3-6-9

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1029

Page 2, line 2, remove "compensation for services provided to the state and is"

Page 3, line 16, remove "compensation for"

Page 3, line 17, remove "services provided to the state and is"

Renumber accordingly

Date:
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1029

Senate Government and Veteran's Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendments

Motion Made By Cook Seconded By Horne

Senators	Yes	No	Senators	Yes	No
Dick Dever	/		Dwight Cook	/	
Dave Oehlke	/		Carolyn Nelson	/	
Robert M. Horne	/				

Total Yes 5 No _____

Absent _____

Floor Assignment _____

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

Date: 3-16
Roll Call Vote #: 2

Carrie
Dever

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1029

Senate Government and Veteran's Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass AS Amended

Motion Made By

Cook

Seconded By

Horne

Senators	Yes	No	Senators	Yes	No
Dick Dever	1		Dwight Cook	1	
Dave Oehlke	1		Carolyn Nelson		
Robert M. Horne	1				

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

HB 1029, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1029 was placed on the Sixth order on the calendar.

Page 2, line 2, remove "compensation for services provided to the state and is"

Page 3, line 16, remove "compensation for"

Page 3, line 17, remove "services provided to the state and is"

Renumber accordingly

2009 TESTIMONY

HB 1029

HB 1029
House Government & Veterans Affairs Committee
January 16, 2009

Ken Purdy, Classification & Compensation Mgr
HR Management Services Div – OMB

HB 1029 resulted from interim Employee Benefit Programs Committee discussion of the authority for and uniformity of various employment practices in state government. The bill specifically addresses employee service awards, employer-paid tuition, and employer-paid memberships & dues.

State Employee Service Awards

- NDAC 4-07-18 provides authority and guidelines for service awards in agencies with classified employees
 - Range from a \$25 gift after 3 years to a \$500 gift after 50 years
- The proposed statute:
 - clarifies the authority of all agencies to provide service awards
 - Requires rules to be adopted by agencies, depts, & institutions not covered by HRMS rules and for those rules to be reviewed by OMB (HRMS) in addition to the Administrative Rules Committee
 - Requires agencies to report awards given to OMB and OMB to compile a summary report to the legislative council

Employer Paid Tuition

- NDAC 4-07-36 provides authority for tuition assistance in agencies with classified employees
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 - Requires payback of tuition assistance on a pro-rated basis if a recipient leaves employ of the agency within 2 years

Employer Paid Memberships & Dues

- The proposed statute:
 - Clarifies the authority of agencies, depts, & institutions to pay employee dues for professional organizations or service clubs when such expenditures are required to do business or are "... primarily for the benefit of the state."
 - Requires agencies to report expenditures, including a statement of the public purpose or benefit, under this section to OMB and OMB to compile a summary report to the legislative council

*Attachment 1
page 1*

(over)

Over the years, the legislature and the state personnel board have expressly separated some agencies, institutions, and groups of employees from coverage under the state classified service. Those decisions have been based on agency operations with differing needs and requirements. Agency and employee group examples are:

• University System	• Assistant Attorneys General
• ND Mill & Elevator	• Mgmt & Sr Lending at Bank of ND
• Dept of Commerce	• Physicians/Psychiatrists
• Workforce Safety & Insurance (<i>currently returning to classified service</i>)	

Sections 1 & 2 require adoption of rules by those entities not covered by HRMS administrative rules. Some of those entities may not otherwise be under the requirements of the administrative agencies practices act (NDCC 28-32).

The purpose of the requirement for review & comment by OMB separate from the administrative rulemaking process is not clear. As entities specifically separate from the state hr management system, how uniform should they be?

Giving agencies clear authority to use these three employment practices is definitely a good thing.

Tracking and reporting these expenditures more intentionally is advisable. Although the fiscal note does not identify any substantive costs, there is effort involved.

Finally, the provision under the section 3 requiring payback of pro-rated tuition if the employee leaves the agency within 2 years depends on perspective. From a bigger view, it might be better to state that the payback is required if they leave the employ of the state.

North Dakota University System
HB 1029 – House Government and Veteran Affairs Committee
January 16, 2009
William Goetz, Chancellor

Ms. Chairman, Representatives of the Government and Veteran Affairs Committee.

Good morning. For the record, my name is Bill Goetz, chancellor of the North Dakota University System.

The bill...

- Permits NDUS to establish rules
- Makes policies and procedures of the SBHE subject to review by OMB, and review (or approval?) by the legislative council's administrative rules committee. Do not object to filing SBHE policies with OMB.
- Notwithstanding this legislation, the SBHE already has authority found in the state constitution to establish terms and conditions of employment for faculty and other employees in order to manage its institutions in an efficient and economic manner. Employer-paid dues and membership fees and tuition or tuition waivers are common in higher education and it is essential that the SBHE have flexibility to manage these benefits in order to compete in the job market with other higher education institutions.
- There is no automated process for tracking and reporting available; volume of reporting would be a significant manual process – see number estimates under each section below.
- An amendment to exempt the NDUS, and allow the SBHE to develop its own policies. Removes SBHE from reporting requirement.

Section 1: State Employee Service Awards (generally range between \$25 for three years of service, up to \$450 for 45 years of service, with 20 years at \$200)

- Given amounts and requirements are set forth in policy, question need to report information. State Auditor's Office regularly reviews for compliance with state statute and SBHE policies as part of the regular audit.
- If establish reporting requirement, set reporting dollar threshold (e.g. over \$250 a year)
- No automated process for tracking and reporting available
- About one-half of the NDUS campuses follow the OMB service award guidelines; the other half do not, but appear to have a more conservative program. Some campus service awards are funded through the foundation. I assume foundation activities would not be governed by any statutory requirements.
- There are an estimated 800-1000 service awards per year.

Section 2: Employer paid tuition

- Bill refers to “employer-paid” costs of training and educational courses, including tuition and fees”
- Higher education in the business of education, it is critical that faculty (and staff) remain current in their field
- Not sure if this is intended to apply to tuition waivers for employees and/or employee spouse and dependents
- Waivers are already addressed in SBHE policy—limit to three courses per year, with release time, if approved by supervisor. Common benefit among higher education institutions, those we most commonly compete with for employees. In fact, many other higher education institutions provide a more generous benefit.
- Bill requires repayment if employee leaves within two years. Not a common practice among higher education institutions and difficult to collect repayment. What if training is required to maintain certification (e.g attorney, CPA, etc.)
- Does an employee who transfers between system campuses or between a campus and state agency or vice versa has to repay the cost?
- There are an estimated 3,500-3,750 employees per year engaged in training and professional development events, excluding employee tuition waiver courses. Between 1,000-1,200 employees take advantage of the employee tuition waiver per year for a total of approximately 1,600 courses.
- It is estimated that about 200 employees would be required to re-pay a portion of the training and development cost if they leave employment within two years of the event.

Section 3: Employer Paid Dues and Memberships

- Legislation permits payment “when required to do business or if the membership is primarily for the benefit of the state”; if so, why need to report?
- Systemwide, it is estimated that there between 1,500-1,750 memberships/dues per year. As one campus pointed out, “each academic discipline is supported by at least one professional organization”.

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North Dakota University System
PROPOSED AMENDMENTS TO HOUSE BILL NO. 1029:

Page 1, line 15, after the word "programs" insert: ", excluding institutions under the control of the state board of higher education,"

Page 1, line 19, after the word "section" insert: ", excluding institutions under the control of the state board of higher education,"

Page 2, line 14, after the comma insert: "excluding institutions under the control of the state board of higher education,"

Page 2, line 18, after the comma insert: "excluding institutions under the control of the state board of higher education,"

Page 2, line 25, after the first "tuition" insert: ", excluding institutions under the control of the state board of higher education,"

Page 3, line 6, after the word "dues" insert: ", excluding institutions under the control of the state board of higher education,"

Renumber accordingly

HB 1029
Senate Government & Veterans Affairs Committee
February 26, 2009

Ken Purdy, Classification & Compensation Mgr
HR Management Services Div – OMB

HB 1029 resulted from interim Employee Benefit Programs Committee discussion of the authority for and uniformity of various employment practices in state government. The bill specifically addresses employee service awards, employer-paid tuition, and employer-paid memberships & dues.

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Statute	Personnel Board
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Tracking and reporting these expenditures more intentionally is advisable. Although the fiscal note does not identify any substantive costs, there is effort involved.

The provision under the section 3 requiring payback of pro-rated tuition if the employee leaves the agency within 2 years depends on perspective. From a bigger view, it might be better to state that the payback is required if they leave the employ of the state.

Finally, since the House hearing and passage of this bill, we've discovered a significant concern. In Section 1 on employee service awards; p2, line 2; the language "... compensation for services provided to the state ..." could mean that such awards are automatically taxable income. In Section 3 on memberships and dues; p3, line 16-17 contains the same language. That could be very significant for some individuals who maintain some memberships for the benefit of the state.

We request that you consider the amendments on the attached page removing that specific language.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1029

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