

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2211

## 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2211  
January 20, 2011  
13131

Conference Committee

Committee Clerk Signature

*Kate Oliver*

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

Relating to exemptions to veterans' preference and public employees.

### Minutes:

*No testimony attached*

Chairman Dever opened the public hearing on SB 2211, the bill's sponsor, Senator Tony Grindberg was present to introduce the bill to the committee.

**Senator Grindberg:** Fargo. I'm here as prime sponsor. It adds assistance and it adds athletic team making them subject to Veteran's Preference.

**Senator Cook:** I don't have any problem with the bill the only thing that catches my eye is the word teacher. Do you think that we need to take that out of coed?

**Senator Grindberg:** I was unaware that it was in the bill, I would look to the committee as to how to proceed.

**Senator Dever:** They might be included in teacher. When we were looking that the bill as it were I was talking to a girl who had come back from Iraq

**Jean Taylor:** Athletic Director of NDSU, I am speaking in favor of 2211. The world of Division I coaching is unique. The hiring process for those coaches is not unique because we follow the NDUS process. My concern is that the delay the search process and I could lose qualified people. In order to get the best candidate you typically know a lot about them. What I am concerned about is the 30 day window. The other thing is a lot of times when we post the minimum qualifications we try to get a broad pool of applicants. My concern is about the challenges that is proposes.

**Chairman Dever:** Was this a problem in the past?

**Jean Taylor:** A few years ago and we lost a few quality candidates because the process has that challenge.

**Cynthia Wagner-Goulet:** Assistant General Counsel for the university system. I'm here to answer any questions that you may have about the amendment.

**Ron Otto:** Secretary of the Administrative Committee of Veteran's Affairs. For a point of clarification with regard to Veteran's Preference in a merit system a veteran would get 5 points and a disabled veteran would get 10 points but they wouldn't automatically get the job.

**Senator Berry:** Can you explain the point system a little more?

**Ron Otto:** Under Veteran Preference, a point system is assigned. Normally it is a 100 point scale. With regards to a veteran who is qualified, is given 5 extra points and if they are a disabled veteran they are given 10 extra points.

**Senator Berry:** When you say those that qualify does that mean those that are honorably discharged?

**Ron Otto:** Yes there is a veteran law in Chapter 37 which outlines all of that.

There was no one else to speak in favor or opposition to SB 2211.

**Bev Nelson:** North Dakota School Boards Association. We are just looking to make the language consistent between k-12 and higher education.

The committee then closed the public hearing on SB 2211

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2211  
February 11, 2011  
14432

Conference Committee

Committee Clerk Signature *Kate Oliver*

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

Relating to exemptions to veterans' preference and public employees

## Minutes:

*No testimony attached*

Chairman Dever opened the floor to discussion on SB 2211.

**Chairman Dever:** This came to us to exempt athletic coaches. There was some talk of exempting principals and I think that things like that are included

**Vice Chairman Sorvaag:** Isn't this also in the bigger Veteran's bill?

**Chairman Dever:** And if we go to that one I think that we will spend all morning on that.

**Vice Chairman Sorvaag:** Do we want to do this one separate or wait to include it.

**Chairman Dever:** I don't mind waiting until next week if that is your preference.

**Senator Nelson:** Can we have Legislative Council meld them and hog house one or the other because they are going to have to do it sooner or later if they both pass.

**Chairman Dever:** why don't we set them both aside for now and take them up again next week.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2211  
February 17, 2011  
146070

Conference Committee

Committee Clerk Signature

*Katze Oliver*

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

Relating to exemptions to veterans' preference and public employees.

**Minutes:**

*No testimony attached.*

A motion for a do pass was made by Senator Cook with a second by Vice Chairman Sorvaag, there was no further discussion, roll was taken with the motion passing 6-0-1 with Vice Chairman Sorvaag carrying the bill to the floor.

Date: 2-17  
Roll Call Vote # 7

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2211

Senate \_\_\_\_\_ Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Cook Seconded By Sorvaag

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook					
Senator Schaible	X				

Total (Yes) 6 No 0

Absent Benny

Floor Assignment Sorvaag

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

**REPORT OF STANDING COMMITTEE**

**SB 2211: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
SB 2211 was placed on the Eleventh order on the calendar.

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2211



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

SB 2211  
March 10, 2011  
15285

Conference Committee

Committee Clerk Signature

*Carmen Hart*

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

Relating to exemptions to veterans' preference and public employees

## Minutes:

**Chairman Bette Grande** opened the hearing on SB 2211.

**Senator Tony Grindberg, District 41**, appeared in support of SB 2211. It provides for two additional exemptions under the veterans' preference hiring clause. This bill has been approved by the North Dakota university system board.

**Lynn Dorn, North Dakota State University Athletics Department**, appeared. I am deeply grateful for the service that our people have given to us. This bill is very important in intercollegiate athletics. What is happening is that there are individuals from all walks of life that make application for coaching positions. Perhaps there isn't a familiarity with the expectations that many of our programs have in terms of the qualifications of a coach. Perhaps they might think that coaching at eighth grade or elementary or even a varsity high school team might enable them to transfer their skills to a collegiate level. That really probably isn't the case. That coach, it seems to us, has really a very definite set of unique skills and previous experience is at the highest level of competition. What we are finding is that veterans have made applications for those coaching positions and currently if they don't meet the minimum qualifications, we are responsible to provide to them upon conclusion of the deadline for application a 15 day window of opportunity to appeal. That is really the essence of what this is about. It is not about welcoming people to apply. It is really about being able for us to follow the process of grading out different job responsibilities, actually going through the process of a numerical system like we would for any applicant, and should a veteran not meet the minimum qualifications, we would like to be able to move forward and continue with the hiring process. That is the stop gap that we have right now. We are not able to do that. Two occasions this year at North Dakota State potentially impacted the choices of our coaches. One, women's basketball, a veteran did apply and unfortunately did not meet the minimum qualifications. Had they met the minimum qualifications, they would have been given full consideration. We waited for the 15 days. That individual elected not to appeal. Similarly in football, we also had a situation where a veteran applied and again unfortunately did not meet the qualifications and as such the window of opportunity for us to hire was extended. Why is that important in athletics? The world of athletics is very fast. It is very quick. It is a changeover. There is a

high level of confidentiality. There are risks for coaches to take to even go out and interview and if by chance we need to extend that, they would potentially not even apply because they couldn't again because of recruiting student athletes and because of their current job, take that potential risk. It is not about the veterans. It is about those individuals collectively that aren't qualified of which this category happens to be the veterans.

**John Jacobsen, Chairman, Legislative Committee of the North Dakota Veterans' Coordinating Council**, appeared in support. **Attachment 1**. There was a portion of the bill they were curious about, the title of assistants. Talking with Commissioner Wangen he said that problem had been clarified and this was the key to our coordinating council's approval of it.

**Chairman Bette Grande:** If you note in the bill, it says assistant and it was crossed off. Initially there used to be an assistant to the president and now there are multiple assistants.

**Neutral:**

**Lonnie Wangen, Commissioner of Veterans' Affairs**, appeared neutral. I spoke with Mr. Pat Seaworth today, general counsel, and he was going to assure that somebody would come down and for the record state the definition of assistants. If you look into the century code there is nothing stating assistants. If we look in our North Dakota administrator code of OMB and HR since they do not follow under that, assistants isn't clarified as far as what the president's assistant is. Since I am the commissioner of veterans' affairs and appeals will come to my desk, to be fair I want to have a good definition explained to this board so that I have something to go off when that does happen. If you just look at assistants, does that mean what we think of as an assistant like a secretary or somebody who just works for you where you have one or two or do you figure this whole group of 20 people working for me are all my assistants. It can be argued either way.

**Cynthia Wagner Goulet, Office of General Counsel, North Dakota University System**, appeared to answer Mr. Wangen's question. I am aware that Mr. Pat Seaworth did have a conversation with someone today on this subject. I wasn't aware that I was going to be testifying but I am certainly willing to. When you look at the word assistant and now it is pluralized. In our practice it means persons who report to the president. In the grand scheme of things one could take the position that everybody at the university reports to the president and they are all assistants in some fashion, but that certainly has never been the practice of university system. It typically has been one person in the past but as personnel have grown in numbers and responsibilities of the president of an institution have grown in nature and in scope, it has become necessary that a president may indeed have more than one assistant. He may have, for example, two assistants. That has been the practice and there is no intention on the part of the university system to somehow enlarge that to encompass any and all persons who may be accountable to the president in some fashion. Typically it is a direct report to the president and typically that is a handful of persons or less.

**Chairman Bette Grande:** Can I say for the record the legislative intent to the university systems is that it will be the one or two direct individuals to the president of the university only that would fall within the exemption?

**Cynthia Wagner Goulet:** The intent of the university system would be, as opposed to legislative intent, that it would be those few persons who report directly to the president and are considered as her or his assistants. Typically that comes with a title and that person has a job description. It may be administrative assistant to the president, assistant to the president, as opposed to anyone else on campus.

**Chairman Bette Grande:** I think for committee's peace of mind we are going to need something a little more direct. Otherwise we will put in what legislative intent will be. I will let you decide if you want me to narrow that down or if you wish to narrow it down.

**Cynthia Wagner Goulet:** Certainly I can do that. How do you wish me to communicate?

**Chairman Bette Grande:** You may communicate to the intern through email.

The hearing was closed.

**Chairman Bette Grande** opened the discussion on SB 2211 later this same day.

**Eveadean Myers, Vice President of Equity Diversity and Global Outreach, North Dakota State University,** appeared. Just to add some clarification on assistants. When we are talking about assistants, we are talking about like an administrative assistant, somebody that handles the calendaring and the different appointments and the scheduling for the president. Sometimes you have two people. One is doing like the major meetings and the other one is doing the different internal types of duties. We do have job descriptions for what we mean by assistant and can make available to you.

**Rep. Vicky Steiner:** I am new to this and I know we are only going from assistant to assistants and I understand you have an assistant to the president. I know there is an assistant to our president at the local college in the city where I live. I am just curious why veterans' preference can't be applied to that particular position which may have happened before you started working through the university system? It doesn't seem like a position that should be exempted.

**Eveadean Myers:** One thing that I do want to share that even goes with the coaches is if the veteran is qualified, there is no problem with exemption. We are going to hire them because we actively go out and recruit veterans because that is what we are trying to do. Just because a person is a veteran doesn't mean that I would allow them to move somebody out. This exemption is only if they are not qualified. Under the current law, let us say a bachelor's degree and they don't have a bachelor's degree, then we have to write them a letter and they have 15 days, 3 weeks. A position like an assistant to a president if you have to wait three weeks and that person is not even qualified, but if they are qualified this is not even an issue. You don't even need an exception. If they meet the qualifications, they get extra points for being a veteran. If you are a veteran, you get an extra 5 points. If you are a disabled veteran, you get an extra 10 points. They automatically go to the top. We will automatically hire them if they meet the qualifications.

**Rep. Bill Amerman:** Are the job descriptions that you are going to make available going to be the same for the other universities?

**Eveadean Myers:** It is going to be a general description that I think should go all across all the 11 schools. We could ask for job descriptions from all 11 of the schools. You are right. They may differ a little bit depending upon what type of school it is. It is not like an assistant vice president. We are talking about the person that sits right in the president's office and does the day to day managing of the office.

**Rep. Gary Paur:** Both Lynn Dorn and this lady says that this only applies to those that don't meet the minimum requirements for the position. Is that in this bill somewhere?

**Chairman Bette Grande:** I think what we are dealing with and I am going to ask the commissioner to verify for me, but we are dealing with Subsection 5, is that where the 15 day window falls or why are we having a preference and then not a preference?

**Lonnie Wangen:** In the old system you would need to send that letter and they would have that 15 days. You would have to send the justifiable cause. The justifiable cause was removed for the point system such as they are using. If you do not meet the minimum requirements, you get the letter that says you did not meet the minimum requirements. There is no need to appeal unless they can show that they do meet the minimum requirements and then it would be just like any other employee. If they do not meet those minimum requirements, they wouldn't be interviewed. They wouldn't be part of that interview process and, therefore you are correct, under the new system that we are proposing, they wouldn't have to send them, have the 15 day window to appeal that, because their veterans' preference was applied to get them to that level to get that interview.

**Vice Chairman Randy Boehning:** What definition do you use of a veteran? There are two definitions in century code. There is the veteran and wartime veteran.

**Eveadean Myers:** I use the definition of veteran that can bring the DD214. We ask them to send that to us.

**Vice Chairman Randy Boehning:** That would be under Subsection 1 and veteran would be all veterans, not just wartime then.

**Eveadean Myers:** It would be all veterans including disabled veterans.

**Rep. Mark Sanford:** Given the discussion that we have just heard, would that framework make your concerns rest more peacefully? Would you be satisfied with that kind of a definition where it is strictly one or two administrative assistants to the president?

**Lonnie Wangen:** Are you talking about the wartime part she described?

**Rep. Mark Sanford:** No, just the assistants.

**Lonnie Wangen:** All we need is the wording of what they consider an assistant so when an appeal comes to me that I can say yes, that is an exempt position. An assistant we looked at was like a private secretary which is listed here. The idea of 2279 is to clarify things so if it can be clarified in there anyway we would appreciate that too.

**Rep. Ron Guggisberg:** You are saying if there is a competitive process where they number them, then there is no 15 day waiting period?

**Lonnie Wangen:** The way the new system would work is you advertise the position. Let us say you have ten positions that you pre describe. You are going to interview the top ten. You add those points up. Wherever you have the points to make those interviews is where your five or ten points are given. If you do not make it into that top list, you get a letter stating that you didn't get the position, you did not meet minimum qualifications. Even at that point unless they can show they did meet them, we can't appeal. We have no grounds to appeal because they did give the five or ten points. After that veterans' preference doesn't really apply. Any veteran who applies should get a letter but they shouldn't have that right to appeal if they had the five or ten points already applied properly.

**Rep. Ron Guggisberg:** When you take applications when you hiring an assistant, do you rank them 1-20?

**Eveadean Myers:** Yes, depending on the number in the pool. If they are a veteran, they get five extra points. If they are disabled, they get an extra ten points.

**Chairman Bette Grande:** I am having a hard time putting these two bills together. I may have to sit down and see these bills melded together a little bit.

**Vice Chairman Randy Boehning:** I am looking at both bills, 2279 and 2211. I am looking at Page 6, Lines 14-11 of 2279. That is the same language that is in 2211.

**Lynn Dorn:** I am stuck on what your point of emphasis is because I see the amendment as overriding your concern.

**Vice Chairman Randy Boehning:** If we pass both of these here, this one would be melded into this one.

**Lynn Dorn:** Would you meld it? It would be melded. Okay, that is your point of emphasis.

**Eveadean Myers:** I didn't see this one so we didn't make this change, but I agree with you. I see where you are confused. It should read the same as the other one. We should be adding assistant/s to the president and then the same language that is in the other one about the coaches.

**Vice Chairman Randy Boehning:** Is there any language in 2279 that is going to be a conflict to this other bill? Is there anything that is going to be of concern to you?

**Chairman Bette Grande:** If you look at their underlined language on Lines 20-22, does that address your concern? So we don't even need this bill if we put coaches into 2279.

**Eveadean Myers:** I would put like a slash after assistant and put s because the larger schools might have more than one.

**Chairman Bette Grande:** Take that language and put it into there. A lot of your concerns are addressed. You advertise it and you state that there is not a veterans' preference so it eliminates your problem.

**Lynn Dorn:** What you are suggesting is after...

**Chairman Bette Grande:** On Line 18 add...

**Lynn Dorn:** I am not sure the language is the same though. It has to be melded. I don't think it can be substituted. We either have to take and add athletic teams as you suggested because this language is not being replicated here.

**Vice Chairman Randy Boehning:** It is not. I want to make sure that when we pass this here if there are any concerns with what is in 2279.

**Chairman Bette Grande:** What is going to happen is say we pass both these bills, legislative council is going to take 2211 and put it inside 2279. They are going to change those couple words, but what I am wanting you to look at is how does that affect you when you see if an exempt position is advertised, the advertisement must state the veterans' preference does not apply to the position being advertised? That should really eliminate a great deal of your concerns.

**Rep. Glen Froseth:** Language in Line 15 might be \_ also.

**Chairman Bette Grande:** Yes, administrative head of departments required by law would be another part of that exemption in there which doesn't concern them per say.

**Cynthia Wagner Goulet:** Both of these bills deal with the same law. We have Subsection 5 on the one. That is also in the more lengthy version. I do think we do need to add in the more lengthy version that modifies a lot of different statues within that act to include assistants but also athletic team coaches. Then the sentence that says if a position is exempt from veterans' preference employment law that should be stated in the advertisement. That is what we would then do for positions, athletic coaches, chancellors, and all the listed positions. Yes, they do deal with one and the same thing but the one deals with a lot of other things too.

**Chairman Bette Grande:** In the final product in the last day, come July 1 if this is passed, you have to do this. You have to do the big bill if we pass the big bill.

**Rep. Glen Froseth:** If you wanted them to be exactly alike, you should mirror both of them. Should 2211 be amended to mirror the same as 2279? Even if you give 2211 a do not pass and it happens to pass—the last one that passes is the one that is dominant.

**Chairman Bette Grande:** You are asking to add the administrative head of a department required by law and then if an exemption?

**Rep. Glen Froseth:** Amend both bills to be exactly the same. We could give 2211 a do not pass but if it happened to pass on the floor, then the last bill to survive would be the one that would take precedence.

**Cynthia Wagner Goulet:** That sounds like a good idea.

**Chairman Bette Grande:** I think we have a compromise here. As soon as we have the idea of what an assistant is, I think we will be ready to go.

**Lonnie Wangen:** Rep. Boehning brought up the question what do you consider a wartime veteran? That is one thing I guess I failed to provide in my testimony the reason for the wartime being removed. A veteran serving in the last ten years is a wartime veteran whether or not you went overseas or if you worked in an office in North Dakota the whole time. If you are a veteran, you are a wartime veteran. The period of a veteran not being a wartime veteran is very small now because we have been at war so long. To simplify things and make it easier, that is why we are asking to remove that. If you look at who is looking for a job right now, it is going to be our new veterans. This also will be clearer for HR people.

Discussion ended on this bill.

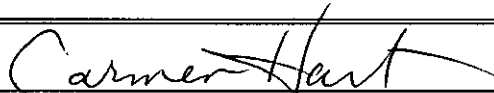
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

SB 2211  
March 17, 2011  
15639

Conference Committee

Committee Clerk Signature



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

Relating to exemptions to veterans' preference and public employees

## Minutes:

**Chairman Bette Grande** opened the discussion on SB 2211. As I sat and listened to this one and kept reading it, this section does not apply and I realize that this is old language but this is what intrigued me. This section does not apply when the position to be filled is that of a superintendent of schools, teacher, or the chief deputy or private secretary of an elected or appointed official; the chancellor and vice chancellor, the board of higher education, and presidents or executive deans, vice presidents. That is a whole lot of people that got exempted out of the veterans' preference. What intrigued me with this was teacher because my veteran comes back and he used his education that he so duly earned and becomes a teacher. I don't why he or she is not getting preference. That word bothered me. As we started to discuss what an assistant was, I am thinking an assistant well who is better qualified as an assistant than a military person who has done that kind of thing in the military? Why wouldn't we want to have them as preference to assistant to the president of the universities?

**Rep. Bill Amerman:** They are good thoughts. Private secretary of an elected or appointed official, private secretary, I am not so sure why that is so highly rated that you couldn't have veteran's preference.

**Rep. Mark Sanford:** Most school districts do not use a point system in terms of employment and so if you had to have the 15 day waiting period as your option and there is three career and technical ed. teachers available in the state and there are 25 of you chasing them, you don't want to wait 25 minutes if you have an opportunity.

**Chairman Bette Grande:** Don't all of them have to take the preference then? Wouldn't this guy be applying at multiple places? He would be preferenced at all of them.

**Rep. Mark Sanford:** Could be if it was applying there. What I am referring to is that in the testimony we heard that when you hire an athletic coach at the university level, it doesn't take three weeks. It doesn't take 15 days for the whole process and when you get the offer, it is usually done right now and you have them signed up. Particularly today, there just are not pools anymore outside of a couple of areas. I think every hiring area in teacher



is now declared "emergency" or special needs area with the exception of elementary. All of the others are in this status which when you are hiring teachers that means there is going to be some willingness to give them temporary certificates and all that kind of thing when they get to that. I think it is one of those things that probably parallels not in notoriety but maybe in urgency with some of these coaches are doing.

**Rep. Gary Paur:** Could I have a definition of instructors on Line 10?

**Chairman Bette Grande:** I believe they are referring to the professors at the universities, anybody teaching in the classroom.

**Rep. Gary Paur:** The same thing could apply to the teachers.

**Chairman Bette Grande:** Other than that a lot of university professors are pretty specialized.

**Rep. Gary Paur:** Instructors are not necessarily?

**Chairman Bette Grande:** No, not all instructors.

**Rep. Gary Paur:** When you get up to professor, that is a different deal.

**Rep. Lonny Winrich:** Also with respect to the kind of hiring process that goes on there, I think the 15 day waiting period is a serious problem. You are in a very competitive market in a lot of cases for those kinds of positions.

**Chairman Bette Grande:** There is my dilemma on this one.

**Rep. Ron Guggisberg:** Has this been studied lately or changed lately? Where I work we often run into this where you think you are going to hire somebody and then you find out they were a veteran and you have to wait 15 days if you don't choose them. There are a lot of issues with this. Maybe it could be improved.

**Chairman Bette Grande:** I think you are right. I don't know that this particular section of law has been looked at but the veterans' preference in 2279 was changed last session. It has been tweaked often but not really looked at. I think it would be an interesting discussion for all areas of employment.

**Rep. Ron Guggisberg:** If it is a can of worms that we want to open up.

**Chairman Bette Grande:** I know. That was what I was told, tread lightly. Hold on to this one too.

Discussion ended.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

SB 2211  
March 24, 2011  
15945

Conference Committee

Committee Clerk Signature

*Carmen Hest*

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

Relating to exemptions to veterans' preference and public employees

## Minutes:

**Vice Chairman Randy Boehning** opened the discussion on SB 2211. The chair will note that a quorum is present.

**Rep. Lisa Meier:** Commissioner Wangen testified neutral.

**Rep. Lonny Winrich** mentioned an email that everyone should have received.

**Rep. Bill Amerman:** His concern was what was assistants when you add the s? Who would qualify as assistants to the presidents and how many that would involve?

**Vice Chairman Randy Boehning:** Do we need to do something with assistants?

**Rep. Karen Rohr:** If I recall, I thought that Chairman Grande said that she spoke with someone from the university about it and that we need an amendment.

**Vice Chairman Randy Boehning:** When I talked to her this morning, she didn't say anything about amendments on it.

**Rep. Karen Rohr:** Maybe after her conversation with that individual, it wasn't necessary. I don't know.

**Vice Chairman Randy Boehning:** SB 2279 is similar to that. What is the difference?

**Rep. Gary Paur:** There was some problem with excluding teachers and the assistants altogether.

**Vice Chairman Randy Boehning:** I think the assistants to the president. I think that they basically are trying to have the exemption on the assistant to the president.

**Rep. Gary Paur:** Why exempt them?

**Vice Chairman Randy Boehning:** If you work really well with someone, you probably want to keep that person. Maybe they would move with you from job to job.

**Rep. Lonny Winrich:** This is a very limited exemption. It only applies to the higher education system and it is dealing with positions that are essentially executive positions or athletic coaches. These are positions which often are highly recruited. You find somebody for that spot and then if the veterans' preference is necessary, that can mess up your recruiting process.

**Vice Chairman Randy Boehning:** It was basically the assistants that we had the problem with. What we understand with that is it is just dealing right with the president.

**Rep. Gary Paur:** I don't think this is just for higher education. The section starts out with superintendent of schools, teachers, so I think it is more inclusive than just the higher ed.

**Vice Chairman Randy Boehning:** When you read that in Line 9, vice presidents, assistants to the president, provosts, I don't think we have...

**Rep. Gary Paur:** I am talking about two different things there. The whole section is not just exclusive to the higher ed. It is also inclusive of teachers and superintendents, etc.

**Vice Chairman Randy Boehning:** That wouldn't apply to assistants. It would apply to just the president, the higher ed., and athletic teams.

**Rep. Glen Froseth:** I have a note here that administrative assistants to determine rather than just assistants to the president. I don't know who suggested that to make it an administrative assistant.

**Vice Chairman Randy Boehning:** I don't have that note on that, but that might be something we would be able to...

**Rep. Glen Froseth:** Either that or just leave it to singular assistant to the president. That is pretty open too I would think.

**Rep. Lonny Winrich:** That would, in fact, broaden the category, because administrative assistant is a classification in the state classified service. For example, department secretaries in the university go through a promotion scale and so on and I believe the top level for secretary is administrative assistant. If you say assistants to the president, you are dealing with high level executives and that is the restriction.

**Vice Chairman Randy Boehning:** I think the reason they have assistants because some presidents have more than one assistant.

**Rep. Karen Rohr** made a motion for a Do pass.

**Rep. Lonny Winrich** seconded the motion.

**Rep. Karen Karls:** In my notes we were talking with Cynthia Wagner Goulet, assistant counsel for the university system. She said assistants means persons who report to the president and they may have more than one assistant. Chairman Bette Grande's comment was we were dealing with legislative intent. Please narrow it down or we will. I thought that she was going to come in with some kind of an amendment defining this.

**Vice Chairman Randy Boehning:** I think we narrowed the definition of assistants down.

**Rep. Ron Guggisberg:** I think after the hearing Chairman Grande did talk to her and maybe clarified that.

**Steven Podoll, Law intern,** shared parts of her email that he had forwarded. Yes, Cynthia Wagner pluralized it. It wasn't to make any consequential effect to the law. In this case, however, the pluralizing of the word assistant may, given concerns raised yesterday, have caused a substance of change also. That being said SBHE does support this bill on both items as discussed above which the bill proposes to change within Subsection 5 of NDCC 37-19.2-02. We do this because we know that there are higher education institutions which do, in fact, have two assistants to the president, so to pluralize the word seems appropriate and may prevent any confusion at a future time. I am personally aware of at least two of the 11 higher education institutions which have two executive and/or administrative assistant to the institution president, staff persons who report directly to the president and who work in the president's office on matters inherent to the president's duties and office. To address the concern raised, which is to clarify what is intended by assistants to the president we suggest the following language be added to the bill: Line 9, before the word assistants insert the phrase executive or administrative so that this will then read presidents or executive deans, vice presidents, and overstrike assistant, executive or administrative assistants to the president. I know we had some discussion regarding what happens if we put administrative in front of that. That was a suggestion from assistant general counsel. A little later on Steven made copies of this email available to the committee members.

**Attachment 1.**

**Rep. Bill Amerman:** Did you mention deans also?

**Vice Chairman Randy Boehning:** That is already there.

**Rep. Lonny Winrich:** It already is in law.

**Vice Chairman Randy Boehning:** The administrative assistant definition, like Rep. Winrich said, is in code. I wonder if executive assistant would be.

**Rep. Lonny Winrich:** I am curious about the language, to the president followed by the

**Vice Chairman Randy Boehning:** That would narrow it down.

**Rep. Lonny Winrich:** If I understood the memo correctly, she sort of said we support the bill the way it is but if you want to put this in there, you can.

**Vice Chairman Randy Boehning:** I know we had some concerns on that. With administrative assistant that would probably widen it out a little bit more because then you end up having the whole office exempted.

**Rep. Bill Amerman:** I think it is a pretty clean bill. It is a very narrow portion that might be used as a veteran's preference, not saying it wouldn't be used. If there is some kind of snowball effect in the next couple years, we can always revisit it.

**Vice Chairman Randy Boehning:** It should only affect the 11 universities.

**Rep. Lonny Winrich:** The thing about superintendent of schools, teacher, chief deputy, secretary is current law. We are not changing that. The only thing that is changing in this bill is the reference to positions and board institutions and that is the higher education system.

**Rep. Gary Paur:** I agree. I remember Chairman Bette Grande questioning why teachers were exempt from the preference.

**Rep. Karen Karls:** I believe it is because school districts don't usually use the point system when they hire. This only applies if the point system is used and if they do qualify, there is the 15 day waiting period.

**Vice Chairman Randy Boehning:** Trying to hire a teacher at the end of the school year and having that 15 day waiting period could end up losing a good, qualified teacher.

**DO PASS, 10 YEAS, 0 NAYS, 3 ABSENT. Rep. Lonny Winrich is the carrier of this bill.**

**Rep. Lisa Meier:** I would like to ask Josh Askvig a question. Do you get many requests from educators to actually belong to veterans' preference?

**Josh Askvig, NDEA,** stated not that he was aware of. I know of one case in the last year where veterans' preference has been brought up as an issue, but it wasn't a case that I dealt with so I can't tell you the details. It is not often.

Date: 3-24-11  
 Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 221

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rohr Seconded By Winrich

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman	✓	
Vice Chairman Randy Boehning	✓		Ron Guggisberg	✓	
Glen Froseth	✓		Lonny Winrich	✓	
Karen Karls	✓				
Lisa Meier	✓				
Gary Paur	✓				
Karen Rohr	✓				
Mark Sanford					
Vicky Steiner					
Roscoe Streyle	✓				

Total (Yes) 10 No 0

Absent 3

Floor Assignment Winrich

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

**REPORT OF STANDING COMMITTEE**

**SB 2211: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).  
SB 2211 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2211



Attachment 1  
2211

TESTIMONY ON 2211 - ND VETERANS COORDINATING COUNCIL.

A veteran is an individual that has signed a blank check in the amount of and up to including his or her life for their country. Good morning, my name is John L. Jacobsen. I am the Chairman of the Legislative Committee of the North Dakota Veterans Coordinating Council. I am also a member of the American Legion and the Veterans of Foreign Wars.

I served in the North Dakota National Guard and the US Army Reserve for a total of 30 years. I retired in 1995 as a Colonel. I was mobilized for Active Duty in 1991 during Operation Desert Shield/Desert Storm. Like all mobilizations, I left my home and family to serve in the Persian Gulf, stationed in the United Arab Emirates.

The Coordinating Council is made up of 15 members, 3 from each of the five Veterans Organizations in North Dakota:

- American Legion
- AMVETS
- Disabled American Veterans
- Veterans of Foreign Wars
- Vietnam Veterans of America

It is the policy of the Coordinating Council to support legislation that will benefit the welfare of the members of the Armed Forces. The committee MUST concur totally, that is all 15 members must agree on the legislation to be supported or else it does not get the support.

In this case, I have been instructed to recommend to this legislative committee that a "DO PASS" on SB 2211 is supported by the membership of the Veterans Coordinating Council once clarified.

Attachment 1  
22/1

NDLA, Intern 09

**From:** Goulet, Cynthia Wagner [cynthia.wagner.goulet@ndus.edu]  
**Sent:** Friday, March 11, 2011 1:55 PM  
**To:** NDLA, Intern 09  
**Cc:** Wangen, Lonnie L.; Seaworth, H. Patrick; Johnson, Rick D.  
**Subject:** SB 2211  
**Attachments:** image002.jpg

Mr. Steven Podoll,

This responds to the concern expressed yesterday, as I understood it, with the "pluralizing" of the word "assistant" in the amendments to subsection 5, NDCC 37-19.2-02, as contained in SB 2211. The State Board of Higher Education (SBHE) supports this bill, as noted yesterday, although it should be clarified that this is not a SBHE bill. This support originated with the addition of the phrase "and athletic team coaches". I emphasize that point, because while I am knowledgeable about the impetus to add to this section the phrase "athletic team coaches," I was not familiar with the source of the other amendment, which is a change from singular form to plural form of the word "assistant" now set out on line 9 of this bill. As best as I can deduce, the change in the word "assistant" came about only for "form and style" purposes, likely done by a staff person in Legislative Council, in an effort to make the word "assistant" consistent with the other phrases in the section, most of which are plural. It was explained to me that this bill was given to Legislative Council as a "form and style bill," which means a bill submitted by or on behalf of a state agency or entity, and which addresses a relatively simple change but which is then reviewed to determine if "form and style" changes are otherwise needed, changes intended only to affect form and style. In this case, however, the pluralizing of the word "assistant" may, given concerns raised yesterday, have caused a substantive change, also.

As being said, SBHE does support this bill, on both items, as discussed above, which the bill proposes to change within subsection 5 of NDCC 37-19.2-02. We do this, because we know that there are higher education institutions which do, in fact, have two assistants to the president, so to pluralize the word seems appropriate and may prevent any confusion at a future time. I am personally aware of at least two of the 11 higher education institutions which have two executive and/or administrative assistants to the institution president, staff persons who report directly to the president and who work in the president's office on matters inherent to the president's duties and office.

To address the concern raised yesterday, which is to clarify what is intended by "assistants to the president," we suggest the following language be added to the bill:

Line 9, before the word "assistants" insert the phrase "executive or administrative" so that this line will then state:

\_\_\_\_\_

9 "presidents or executive deans, vice presidents, ~~assistant~~executive or administrative assistants to the president,"

\_\_\_\_\_

Please advise if you have any questions on this. I am unavailable after 3 pm today, but back on Monday. Thank you for your assistance.

Sincerely,  
Cynthia

**Cynthia Wagner Goulet**

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Assistant General Counsel

**North Dakota University System**

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