

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRSThe meeting was called to order by REPRESENTATIVE ROBERT H. MILLER at  
Chairperson1:30 a.m./p.m. on February 3, 1988, 1988 in room 526S of the Capitol.

All members were present except:

Representatives Aylward & Peterson  
Representative Gjerstad - E

Committee staff present:

Mary Torrence, - Revisor's Office  
Mary Galligan - Research Department  
Lynda Hutfles - Committee Secretary

Conferees appearing before the committee:

Senator Montgomery  
Delores Lay  
John McNeal, Retired Officers Association  
John Hill, U.S. Department of Labor  
Chuck Yunker, American Legion  
Jim Savage, Air Force Sergeants Association  
Darrell Bencken, Veterans of Foreign Wars  
Faye Custenborder, Retired Enlisted Association

The meeting was called to order by Chairman Miller.

Representative Barr made a motion, seconded by Representative Sughrue, to approve the minutes of the February 2 meeting. The motion carried.

The Chairman called attention to the Agenda for the week of February 8 and the change in time and meeting place on the 9th &amp; 10th. He also announced there would not be a meeting on Thursday, February 4.

Representative Charlton made a motion, seconded by Representative Hensley, to introduce a bill requested by the State Treasurer dealing with unclaimed property. The motion carried.**SB95 - Veteran's Preference**

Senator Montgomery explained the bill and his reasons for introducing it.

Delores Lay gave testimony on behalf of her husband in support of the bill. Current personnel regulations provide that if a person serves longer, sacrifices more, and suffers more, that person is not a veteran and deserves no "grateful recognition" essentially placing them in the same category as those discharged dishonorably. Another unfair impact of the present law is that to qualify for veterans preference points, a person must serve during certain time periods and be separated from the armed services under honorable conditions. See attachment A.John McNeal, a representative of the Retired Officers Association, gave testimony in support of SB95. Existing law deprives active duty military retirees of Veteran's preference regardless of how many wars or campaigns in which they may have served solely on the basis that they retired after 20 years or more of active duty. In doing so the law excludes such a retiree from even the definition of veteran. See attachment B.

John Hill, U.S. Department of Labor for Veterans Employment, gave some background on veteran's preference and talked about the definition of veteran. There is very little impact on other people seeking entry civil service positions.

Chuck Yunker, American Legion, explained to the committee that the American Legion has had a continuing resolution supporting SB 95 and relating legislation concerning veteran's preference.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS,  
room 526S, Statehouse, at 1:30 a.m./p.m. on February 3, 1988, 19   

Jim Savage, Air Force Sergeants Association and retired Master Sergeant, gave testimony in support of the bill. He told the committee he was a veteran of World War II, the Korean war and the Vietnam war, but as far as Kansas veteran's points are concerned, he is not a veteran. It seems totally unrealistic to discriminate against these people who served at such a time.

Darrell Bencken, State Adjutant Quartermaster of Veterans of Foreign Wars, expressed his support of SB95.

Faye Custenborder, Retired Enlisted Association, gave testimony in support of the bill and gave a background of her organization. See attachment C.

Hearings were concluded on SB95.

The meeting was adjourned.

A

Statement In Support Of  
Senate Bill No. 95

Chairman Miller and Honorable members of this Committee. I had requested to speak to this committee in favor of this Bill, however, I was required to go to Lincoln, Nebraska on official duties this week. Therefore, I will submit this statement in support of Senate Bill 95.

In 1975, I retired from the United States Marine Corps as a First Sergeant after Twenty-One years service. I then enrolled in college at Pittsburg State University, where I remained until I completed my Masters Degree in 1979. In July of that year I accepted a position as an Investigator with the Kansas Commission on Civil Rights, where I am still employed as the Assistant Director.

When I first applied for a position with the State in 1979, I first became aware of the current provisions of the law which essentially says that I am not a veteran, and provides that those much younger than I, with less service, less professional knowledge and experience will be preferred above me on state civil service exams. I was shocked and angered when I learned of this exclusion. My later research indicates that only one other state, the state of Maine, specifically excludes retired veterans from receiving preference points on civil service exams. Kansas gave preference points to retired veterans until the 1978 legislature excluded these veterans.

In 1982 I wrote to the then Director of Personnel Services, Norman Hanson, to inquire about this exclusion and to try and find out the legislative intent for excluding retired veterans. Mr. Hanson responded by saying, in essence, that retired veterans did not need the preference points. Whatever the intent, it is clearly contrary to the commonly held rationale for granting preference points, and contrary to the logic for granting preference points on federal civil service exams, and contrary to the provisions of another Kansas statute, 73-201 which specifically gives preference to veterans in all public employment. In 73-201 the logic for veterans preference is clearly stated. The statute reads, "In grateful recognition of the services, sacrifices, and sufferings of those who served..."

In a case brought before the U. S. Supreme Court Washington vs. Davis the Supreme Court said that veterans hiring preference has traditionally been justified as a measure designed to reward veterans for the sacrifices that they made to the nation, to ease the transition from military to civilian life, to encourage patriotic service, and to attract loyal and disciplined people to civil service occupations.

While 73-201 specifically requires a public employer to give preference to veterans, current personnel regulations provide that if a person serves longer, sacrifices more, and suffers more, that person is not a veteran and deserves no "grateful recognition" essentially placing them in the same category as those discharged dishonorably.

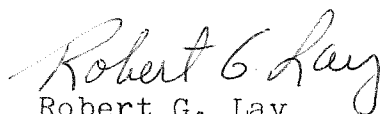
There is another unfair impact of the present law that, perhaps, the 1978 legislature did not realize or anticipate when they allowed the provisions in question to become law. To qualify for veterans preference points, a person must serve during certain time periods and be separated from the armed services under honorable conditions. Military regulations allow individuals to be administratively discharged under honorable conditions for a wide variety of reasons, including drug abuse, alcohol abuse, homosexuality, inability to adapt, incompetence, unfit, etc. A large number of individuals, especially during the period of the Viet Nam conflict, were separated from the services for these reasons, with administrative discharges, under honorable conditions. A large number of these people were high school drop-outs, drug addicts, and people who were unwilling or unable to find or hold a job. Therefore, they enlisted or were drafted into the military service. The qualifications for enlistment were very low at that time. There were so many of these individuals that the military services found it more practical to simply give these individuals an administrative discharge under honorable conditions, rather than go to the time and expense of a court martial to separate them dishonorably.

My point is, all these people who received administrative discharges, under honorable conditions, and served more than 180 days, would qualify for veterans preference points, and I and others who spent over twenty years of honorable service, and have a great deal of professional experience to offer, would not qualify.

It is a commonly accepted practice and principle for an employer, including the State of Kansas, to hire the most qualified individual to do a particular job. However, current law with regard to preference points actually perpetrates the hiring of younger, less experienced, and more than likely, less qualified individuals. The current law seems to ignore the probability that a person who spends over twenty years in the military service is likely to possess more skills, and have more experience than an individual who completes a single enlistment, or even less time.

Ladies and gentlemen of this committee, I urge you to vote in support of Senate Bill No. 95, which will at least put your retired veterans on a equal competitive basis with other veterans for Kansas civil service jobs.

Respectfully submitted,



Robert G. Lay  
1st Sgt. USMC Retired  
Route #1  
Hoyt, Kansas 66440

B

To: Representative R. H. Miller  
Chairperson--House Committee, Federal and State Affairs

Mr. Chairman and Members of the Committee

My name is John McNeal. I represent THE RETIRED OFFICERS ASSOCIATION as state legislative chairman in expressing the ASSOCIATION's full support of Senate Bill 95 which amends the Kansas Veterans Preference Act (KSA 75-2955) to remove an injustice that existed since 1978.

Existing law deprives active duty military retirees of Veterans Preference regardless of how many wars or campaigns in which they may have served solely on the basis they retired after 20 years or more of active duty. In doing so the law excludes such a retiree from even the definition of veteran.

Under the definition I, if you will excuse a personnel reference, am a Veteran of World War II having served 45 months in the Navy all but 9 months of which was within the continental limits of the United States followed by two rather uneventful submarine patrols in the Western Pacific. After the war I returned to the State Highway Department where I was eligible for and received five points of Veterans Preference.

If, however, I had been a combat infantryman throughout WWII, Korea and Vietnam and then on active service until retirement after 20 years, I would not be classed as a veteran nor would I have been entitled to Veterans Preference.

It should be noted Veterans Preference under KSA 75-2955 does not guarantee employment by the state. The candidate must first make a passing grade on any examination or meet the basic requirements of the job before the five point preference is applied. He then must be selected by the employing agency from a list of qualified candidates. Numerical rating is only factor to be considered in the selection.

It is also noted that the provisions of KSA 73-201 seem to be completely at odds with those of KSA 75-2955. KSA 73-201 provides that those who served (the term, veteran is not used) in WWI, WWII, Korea, Vietnam and other conflicts be given first preference for appointment and employment. "...They shall be preferred for appointments and employed to fill positions in every public department and upon public works of the state of Kansas, and of the counties and cities of this state, if competent to perform such services, and the person thus preferred shall not be disqualified from holding any position in said service on account of age or by reason of any physical or mental disability provided such age or disability does not render him incompetent to perform the duties of the position applied for...."

It is time that this inequity be eliminated. We urge adoption of SB 95.

ATTACHMENT B



FOUNDED 1963

# The Retired Enlisted Association

P.O. Box 50584, Washington, D.C. 20004 • Telephone 301-899-3007

THE RETIRED ENLISTED ASSOCIATION (TREA) IS A NATIONAL ORGANIZATION.

THE MEMBERSHIP IS OPEN TO ANY ENLISTED PERSON HONORABLY RETIRED FROM THE ARMED FORCES OF THE UNITED STATES FOR LENGTH OF SERVICE OR PERMANENTLY MEDICALLY RETIRED SHALL BE ELIGIBLE TO BECOME MEMBER OF TREA.

OBJECT (ARTICLE II) OF THE BY-LAWS

THE GENERAL PURPOSE OF TREA A NOT-FOR-PROFIT RETIRED MILITARY VETERAN'S ORGANIZATION, SHALL BE TO PROMOTE AND ASSIST ITS MEMBERS PROFESSIONALLY AND CULTURALLY, BOTH LOCALLY AND NATIONALLY, TO UPHOLD THE CONSTITUTION OF THE UNITED STATES, TO DEFEND THE UNITED STATES FROM ALL HER ENEMIES, TO IMPROVE THE RELATIONSHIP BETWEEN THE MILITARY AND CIVILIAN POPULACE AND TO MAINTAIN LIAISON WITH THE ACTIVE PERSONNEL OF THE ARMED FORCES.

THE PRESENT MEMBERSHIP OF THE TREA IS 49,000 NATIONAL MEMBERS.

THERE ARE THREE ACTIVE CHAPTERS IN STATE OF KANSAS.

CHAPTER 4 JUNCTION CITY, KANSAS 310 ACTIVE MEMBERS, FROM THIS CHAPTER THERE HAS BEEN A NATIONAL PRESIDENT AND 3 MEMBERS WHO HAVE SERVED ON THE NATIONAL BOARD OF DIRECTORS.

CHAPTER 31 TOPEKA, KANSAS 130 ACTIVE MEMBERS, I FAYE CUSTENBORDER SERVED AS THE FIRST PRESIDENT OF CHAPTER 31 AND I AM NOW SERVING ON THE NATIONAL BOARD OF DIRECTORS FOR THE 2nd TIME.

CHAPTER 16 SALINA, KANSAS

CHAPTER 27 WICHITA, KANSAS WHICH IS NOW UNDERGOING REORGANIZATION.

RESPECTFULLY SUBMITTED

FAYE C. CUSTENBORDER

*Faye Custenborder*



THE RETIRED ENLISTED ASSOCIATION  
"UNITED WE STAND"

FAYE CUSTENBORDER  
NATIONAL DIRECTOR

638 LAFAYETTE  
TOPEKA, KS 66607  
(913) 354-7157

NATIONAL HEADQUARTERS  
14305 E. ALAMEDA AVENUE #300  
AURORA, CO 80012  
(303) 364-8737

ATTACHMENT C

★ ★ ★ UNITED WE STAND ★ ★ ★