

MINUTES OF THE HOUSE COMMITTEE ON VETERANS, MILITARY AND HOMELAND
SECURITY

The meeting was called to order by Chairman Don Myers at 1:30 P.M. on March 14, 2007 in Room 241-N of the Capitol.

All members were present except:

Representative Bob Bethell- excused
Representative Pat Colloton- excused
Representative Dick Kelsey- excused
Representative Bill Light- excused

Committee staff present:

Art Griggs, Revisor of Statutes Office
Athena Andaya, Kansas Legislative Research
Betty Caruthers, Committee Assistant

Conferees appearing before the committee:

Wayne Bollig, KS Commission on Veterans' Affairs
Representative Connie Ruff
John Straham, Attorney
Larry Rebman, Attorney
Ralph Sorrel, Sgt., Leavenworth Police Dept.
George Webb, KS Commission on Veterans' Affairs
George Vega, Director of Personnel Services, State of KS
Chief Doring, Leavenworth Police Dept.
Daniel Miller, Army Veteran, Lansing
Commissioner Brian Grittman, Leavenworth City Commission
Glenn Griffeth

Others attending:

See attached list.

Moved by Representative Ruff, seconded by Representative Proehl for approval of the House Committee on Veterans, Military and Homeland Security held on March 13, 2007 be approved.

Motion carried.

Chairman Myers opened hearings on **HB 2562 - Veterans Preference in employment.**

Chairman Myers recognized Wayne Bollig who gave an overview of how other states utilize Veterans Preference in hiring. (Attachment 1)

Chairman Myers recognized the following six proponents who gave testimony:

Representative Ruff stated that her goal was "to change the state statute in order for veterans preference to consistently apply to all public sector employment, i.e., state, cities and counties." (Attachment 2)

John Straham gave testimony mainly in support of two sections; one mandating that information on the preference be provided to the veteran and one regarding the advantage of government in regards to attorney fees. (Attachment 3)

Larry Rebman in his testimony suggested waiting until present litigations and appeals were completed before making changes or amendments to the law. (Attachment 4)

Ralph Sorrell gave testimony relating to his personal experience with a job interview. (Attachment 5)

George Webb in his testimony recommended the inclusion of the Coast Guard in the definition of Veteran. He also recommended rewording the service of the veteran rather than giving a list of wars. Thirdly he recommended defining "preferred." (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE House Committee on Veterans, Military and Homeland Security at 1:30 P.M. on March 14, 2007 in Room 241-N of the Capitol.

George Vega gave testimony showing the results of interviews at the current time in relation to those before 1995. (Attachment 7)

Chairman Myers pointed out to the Committee that there was one proponent who had turned in a written only testimony, Theodore Scott Sutton. In his testimony he shared his personal experiences as a Veteran. (Attachment 8)

Chairman Myers recognized the following four opponents for testimony:
Chief Doring sees the bill as “unfair, confusing, and impractical”, and expressed concerns about “career enhancing benefits” to veterans not given to other employees. (Attachment 9)

Daniel Miller spoke to “getting your foot in the door” and felt that the veterans preference should help veterans with initial hiring but that once they had the position all internal advancements should be based on performance on the job. (Attachment 10)

Commissioner Brian Grittmann gave testimony which also supported the idea that once hired it should be up to the veteran to prove themselves. He also felt the 10-percent preference was confusing. (Attachment 11)

Glenn Griffeth testified as a veteran that this bill would remove veterans preference to appointments in state government. (Attachment 12)

Chairman Myers closed the hearings regarding **HB 2562** and assigned a Sub-Committee to review the bill. He assigned the following to the Sub-Committee:

- Representative Mario Goico to Chair
- Representative Candy Ruff
- Representative Raj Goyle
- Representative Richard Proehl
- Representative Barbara Craft

Chairman Myers stated the first meeting of the Sub-Committee would be March 15 at 1:30 in room 241-N.

Chairman Myers adjourned the Committee at 3:25.

Next meeting scheduled for Wednesday, March 21, 2007.

HOUSE COMMITTEE ON VETERANS, MILITARY AND HOMELAND SECURITY

GUEST LIST

DATE 3-14-07

| Your Name | Representing |
|---------------------|---|
| GRIFFETH, JOSHUA W. | SELF |
| Pat Kitchens | Leavenworth Police Dept. |
| Nicole Miller | self |
| Rita Miller | self |
| Daniel W. Miller | Self |
| PAT EAKES | KCOO |
| Dennis Sharkey | Leavenworth Times |
| Lawrence Rehman | Attorney for Slusker, Sorrell & Ruff |
| Ralph Sorrell | Self |
| George Welch | KCVA |
| Randy Mettner | The Adjutant General's Dept. |
| Wayne Bollig | KCVA |
| Lee Doehring | City of Leavenworth KS Assoc Chiefs of Police |
| BRIAN GRITTMANN | Leavenworth City Comm. / Retired USMC |
| John Porcavage | Dept of Defense, Ft LWN |
| Tom Lackey | Dept of Admin, DPS |
| Mike Broadwell | Dept. of Administration |
| Gavin Young | Def A |
| George Vega | Def A |
| Kraig Knowlton | Def A |
| Lisa Hoopes | LPA |
| Cindy Lash | LPA |
| Brad Hoff | LPA |
| Melicia Mein | SCLC |
| Diana Wilson | Southern LV County Leadership Devel. |
| Georgia Brown | " " |
| Kelly Leonard | southern LV County Leadership class |
| Melanie Manis | So LV CO leadership class |
| Mark Werthmann | City of Leavenworth |
| Ralph Ostmoyer | Grinnell, IA |

| | Federal | Florida | Texas | Oregon | Nebraska |
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| STATUTE | To be entitled to preference, a veteran must meet the eligibility requirements in section 2108 of title 5, United States Code. | Chapter 295, Florida Statutes, sets forth certain requirements for public employers to accord preferences, in appointment, retention, and promotion, to certain veterans and spouses of veterans who are Florida residents. <u>The relevant portions of the law apply to "the state and its political subdivisions."</u> Public utilities, state universities, school districts, and special taxing districts are subject to the requirements of Chapter 295. | 657.004. Preference Required for Public Entities and Public Works (a) An individual whose duty is to appoint or employ individuals for a public entity or public work of this state shall give preference in hiring to individuals entitled to a veteran's employment preference so that at least 40 percent of the employees of the public entity or public work are selected from individuals given that preference. A public entity or public work that does not have 40 percent of its employees who are entitled to the preference shall, in filling vacancies, give preferences to individuals entitled to a veteran's employment preference until it does have at least 40 percent of its employees who are entitled to the preference | All State of Oregon agencies apply Veteran Preference Points in accordance with ORS 408.230 and 408.235. | 48-226. Veterans preference; required, when. A preference shall be given to preference eligibles seeking employment with the State of Nebraska or its governmental subdivisions. |
| CATEGORIES OF PROTECTED INDIVIDUALS | An honorable or general discharge is necessary. Military retirees at the rank of major, lieutenant commander, or higher are not eligible for preference unless they are disabled veterans. Guard and Reserve active duty for training purposes does not qualify for preference. | Section 295.07, Florida Statutes, extends veterans' preference to: A veteran with a <u>service-connected disability</u> who is eligible for or receiving compensation. The <u>spouse of a veteran who cannot qualify for employment because of a total and permanent service-connected disability</u> , or the spouse of a veteran missing in action, captured, or forcibly detained by a foreign power. <u>A veteran of any war who has served on active duty for one day or more during a wartime period</u> , excluding active duty for training, and who was <u>discharged under honorable conditions from the Armed Forces of the United States of America</u> . The <u>unremarried widow or widower of a veteran who died of a service-connected disability</u> . <u>Any Armed Forces Expeditionary Medal, as well as the Global War on Terrorism Expeditionary Medal are qualifying for Veterans' Preference, provided the individual is otherwise eligible.</u> | (a) A veteran qualifies for a veteran's employment preference if the veteran: (1) served in the military for not less than 90 consecutive days during a national emergency declared in accordance with federal law or was discharged from military service for an established service-connected disability; (2) was honorably discharged from military service; and (3) is competent. (b) A veteran's surviving spouse who has not remarried or an orphan of a veteran qualifies for a veteran's employment preference if: (1) the veteran was killed while on active duty; (2) the veteran served in the military for not less than 90 consecutive days during a national emergency declared in accordance with federal law; and (3) the spouse or orphan is competent. (c) In this section, "veteran" means an individual who served in the army, navy, air force, marine corps, or coast guard of the United States or in an auxiliary service of one of those branches of the armed forces. | Preference points are awarded to eligible veterans seeking employment with all state agencies, and are awarded as follows: five (5) point preference for eligible veterans. Application is made within 15 years of discharge or release from service in the Armed Forces. A ten (10) point preference for service-connected disabled veterans. Application is made throughout the lifetime of the disabled veteran. | Veteran means any person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions); (2) Full-time duty means duty during time of war or during a period recognized by the United States Department of Veterans Affairs as qualifying for veterans benefits administered by the department and that such duty from January 31, 1955, to February 28, 1961, exceeded one hundred eighty days unless lesser duty was the result of a service-connected or service-aggravated disability; |
| REQUIRED NOTICE BY EMPLOYERS | | Public employers must give notice in all announcements and advertisements of vacancies, that preference in appointment will be given to eligible veterans and spouses, and application forms must inquire whether the applicant is claiming veterans' preference, and whether the applicant has claimed such a preference. The regulations provide that an applicant claiming preference is responsible for providing required documentation at the time of making application, but also state that the covered employer must inform applicants of the requirements for documentation. | | | |
| EMPLOYMENT PREFERENCE WHEN A NUMERICALLY BASED SELECTION PROCESS IS USED | | <u>5-Point Preference</u> added to the passing examination score of a veteran who served: more than 180 consecutive days any part of which occurred during the period December 7, 1941, to July 1, 1955; January 31, 1955, to October 15, 1976; after January 31, 1955, and before October 15, 1976; beginning September 11, 2001, and ending on the date prescribed by Presidential proclamation. In a campaign or expedition for which a campaign medal has been authorized. | · Employment preferences, where numerically based examinations are used as a device for selections, consists of adding ten points to the score of the first category of applicants (disabled veterans and spouses of disabled or missing veterans) and five points to the score of other preference-eligible applicants. | | |

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| <p>NUMERICAL SYSTEM</p> | <p>Ten points are added to the passing examination score of: A veteran who served any time and who (1) has a present <u>service-connected disability</u> or (2) is receiving compensation, disability retirement benefits, or pension from the military or the Department of Veterans Affairs. Individuals who received a Purple Heart qualify as disabled veterans. An <u>unmarried spouse of certain deceased veterans, a spouse of a veteran unable to work because of a service-connected disability, and a mother of a veteran who died in service or who is permanently and totally disabled.</u></p> | <p>The rules provide that where the requisite points (ten points to individuals in the first category, and five points to other applicants) have been adjusted to test scores, the names of all the preference-eligible applicants shall be placed on a register or employment list, beginning with those disabled veterans with disability ratings of 30 percent or more, and followed by all other preference-eligible applicants in the order of their augmented ratings.</p> | <p>If a public entity or public work of this state requires a competitive examination under a merit system or civil service plan for selecting or promoting employees, an individual entitled to a veteran's employment preference who otherwise is qualified for that position and who has received at least the minimum required score for the test is entitled to have a service credit of 10 points added to the test score. An individual who has an established service-connected disability is entitled to have a service credit of five additional points added to the individual's test score.</p> | | <p>48-227. Veterans preference; examinations. Veterans who obtain passing scores on all parts or phases of an examination shall have five percent added to their passing score if a claim for such preference is made on the application. An additional five percent shall be added to the passing score of any disabled veteran.</p> |
| | | <p>The regulations state that "appointments to positions will be made from the appropriate register or employment list in the rank order of their augmented ratings."</p> | | | |
| <p>NON-NUMERICAL SYSTEM</p> | | <p>Preference must be given to protected individuals provided such persons possess the <u>minimum qualifications necessary to the discharge of the duties involved.</u> The rule defines "minimum qualifications" to mean a "specification" of the kinds of experience, training, education and/or licensure or certification that provides "appropriate job-related evidence that an applicant possesses the minimum required knowledge, skills, and abilities necessary to the discharge of the duties involved."</p> | | | |
| <p>POSITIONS FOR PREFERENCE ELIGIBLES ONLY</p> | <p>Certain examinations are open only to preference eligibles as long as such applicants are available. These are custodian, guard, elevator operator and messenger.</p> | | | | |
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| | Alaska | North Carolina | New Jersey | Delaware | Pennsylvania |
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| STATUTE | | | The NJ Department of Military and Veterans Affairs is the agency that determines veterans preference for hiring in New Jersey civil service and veteran status for New Jersey civil service pension plans. | | Persons passing civil service examinations required for appointment to positions covered by the State's Merit System receive additional benefits in recognition of their military service. These benefits commonly are referred to as veterans' preference. The authority for veterans' preference in Pennsylvania government employment is contained in The Military Affairs Act of August 1, 1975 (P.L. 233, No. 92), as amended. |
| CATEGORIES OF PROTECTED INDIVIDUALS REQUIRED NOTICE BY EMPLOYERS | Veterans who possesses the necessary qualifications for a given state job classification and served on active duty and received an honorable or general discharge during the dates listed on the employment application, are eligible for a state employment hiring preference. | A veteran who served during a period of war; or The spouse of a disabled veteran; or The surviving spouse or dependent of a veteran who dies on active duty during a period of war either directly or indirectly as a result of such service; or A veteran who suffered a disabling injury for service-related reasons during peacetime; or The spouse of a veteran described in subdivision d. of this subsection; or The surviving spouse or dependent of a person who served in the Armed Forces of the United States on active duty, for reasons other than training, who died for service-related reasons during peacetime. | War period veterans Spouses, widows, widowers and the parents of disabled or deceased veterans are eligible under specific circumstances. | The rules shall provide for preference to be given to veterans of the armed forces of the U.S. who served during wartime. Any preference points for which a veteran would qualify after complying with the provisions above, may be claimed by his or her unmarried widow or widower providing he or she achieves a passing examination grade. | a. Persons in any of the following categories are entitled to veterans' preference if they have completed their military service commitment and have received an honorable discharge from such service prior to taking a civil service examination:(1) Persons who served in the armed forces of the United States, or in any women's organization officially connected therewith for the following specific periods of time: from April 6, 1917 thru July 2, 1921; from December 7, 1941 thru September 2, 1945, and from June 25, 1950 thru July 27, 1953. (2) Persons who have served in an active duty capacity in the armed forces of the United State since July 27, 1953. Such service must include completion of basic training. (3) Persons who served in the National Guard or Reserves. Such service must include completion of basic training. b. Also eligible are: (1) Spouses of disabled veterans. (2) Widows or widowers of veterans. The applicant's most recent discharge must have been under honorable conditions which would include but not be limited to: honorable discharge, general discharge, good dis |
| EMPLOYMENT PREFERENCE WHEN A NUMERICALLY BASED SELECTION PROCESS IS USED | If a numerical rating is used in assessing preference, then Veterans are entitled to 5% or 10% of the points available. Disabled Veterans and former prisoners of war are entitled to 10% or the opportunity to interview, all other Veterans entitled to preference will receive the 5% or be afforded "consideration" | | | | |
| NUMERICAL SYSTEM | | In initial selection procedures, where numerically scored examinations are used in determining the relative ranking of candidates, ten (10) preference points shall be awarded to eligible veterans. | | Preference shall be granted only in the form of credits to be added to earned ratings in examinations, with disabled veterans receiving no more than 10 points and other veterans no more than 5 points. A definition of a disabled veteran shall be set forth in the rules; All veterans shall be required to obtain a passing examination mark before preference credits. | Veterans, qualified widows and widowers of veterans and spouses of disabled veterans who pass civil service appointment tests, receive ten points added to their final score. They must pass the test before points are awarded. Persons entitled to veterans' preference who are among the top three available candidates on an employment certification have mandatory preference in appointment over non-veterans. |

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| NON-NUMERICAL SYSTEM | If no numerical rating device is used, then Veterans will either be afforded "consideration" or an opportunity to interview. | In initial selection, where structured interview, assessment center, in-basket, or any other procedure, not numerically scored, is used to qualitatively assess the relative ranking of candidates, the veteran who has met the minimum qualification requirements and who has less than four years of related military experience beyond that necessary to minimally qualify, shall also receive additional experience credit for up to four years of unrelated military service. | War period veterans who pass state civil service examinations are given absolute preference over nonveterans when applying for state, county and municipal employment. Veterans with service-connected disabilities (at least 10%) who pass civil service examinations are given preference over other veterans and non-veterans for state, county and municipal employment. | | |
| POSITIONS FOR PREFERENCE ELIGIBLES ONLY | | | | | |
| | | | Absolute preference is not extended to promotions, but if a veteran ranks highest on a promotional certification, a non-veteran cannot be offered the appointment before the veteran. | Disabled and Vietnam era veterans are included in the State Affirmative Action Plan signed by the Governor. (Executive Order 24) | |
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| STATUTE | Qualified Veteran applicants must be afforded an opportunity for interview and employment before non-veteran candidates in the same category. | In establishing employment lists of eligible persons for competitive and noncompetitive appointment, certain preferences shall be allowed for veterans honorably discharged from the Armed Forces of the United State[74:840-4.14(A)]. | PAR. 16.101. Veteran Defined. A veteran shall be defined as any individual who served on active duty as a member of the armed forces of the United States for a period of more than 180 days, not counting service under an initial period of active duty for training under the six-months' reserve or national guard programs, any portion of which service occurred during a period of armed conflict and who was honorably discharged therefrom. (06-25-92/07-02-92) | Under Montana's Veteran's Employment Preference Act, U.S. veterans and certain eligible relatives of veterans are entitled to Veteran's Preference in employment. | Yes. In accordance with the Utah State Code 71-10 as well as the Department of Human Resource Management rules, the State of Utah provides veteran's preference to applicants who are eligible for the preference and qualified for the position. Veteran's preference is given at the initial interview or exam stage of the recruitment process. Veteran's preference is limited to the initial hire or re-hire into the executive branch of Utah state government. It does not apply to promotions or transfers within the executive branch of Utah State government. |
| CATEGORIES OF PROTECTED INDIVIDUALS REQUIRED NOTICE BY EMPLOYERS EMPLOYMENT PREFERENCE WHEN A NUMERICALLY BASED SELECTION PROCESS IS USED | To receive veterans preference, separation from active duty must have been under HONORABLE conditions and one of the following conditions must be met: Served a total of at least six months in federal service Released from active duty because of a service-connected disability Discharged on the basis of hardship Served for the duration of hostilities regardless of the length of engagement. | Five points shall be added to the final grade of any person who has passed the examination and has submitted proof of having status as a: A. veteran [74:840-4.14(A)(1)]; or B. unremarried surviving spouse of a veteran [74:840-4.14(A)(1)]; or C. spouse of a veteran who is unemployable due to a service-connected disability | PAR. 16.102. Veterans of any period of armed conflict shall be given points equivalent to five percent of the maximum possible score in addition to their earned passing ratings on any numerically scored written examination for entrance to state service. However, points equivalent to ten percent of the maximum possible score shall be given the following in addition to their earned passing ratings: (09-25-97/09-25-97) (10-6-05/12-22-05) A. Such veterans who establish by official records the present existence of a service-connected disability. (06-25-92/07-02-92) B. Such veterans over 55 years of age who because of disability, whether service-connected or not, are entitled to pension or compensation under existing laws. (06-25-92/07-02-92) C. Spouses of veterans named in A and B, if the spouses are qualified, and if the veterans themselves are disqualified for appointment because of the disability. (06-27-02/12-04-02) D. Spouses of deceased veterans of any period of armed conflict. (06-27-02/12-04-02) | I am a United States citizen AND a person who was separated under honorable conditions from active duty in the armed forces after having served more than 180 consecutive days, other than for training; or a person who, as a member of a reserve component under an order of active duty pursuant to 10 U.S.C. 12301 (a), (d), or (g)10 U.S.C. 12302, or 10 U.S.C. 12304, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from duty under honorable conditions; OR a person who was separated under honorable conditions from active duty in the armed forces and has established the present existence of a service-connected disability, or is receiving compensation, disability retirement benefits, or pension because of a law administered by the department of veterans affairs or a military department, or has received a purple heart medal; OR (a) the unmarried surviving spouse of a veteran or disabled veteran; (b) the spouse of a disabled veteran who is unable to qualify for appointment to a pos | |

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| <p>NUMERICAL SYSTEM</p> | <p>Under State law, qualified veterans are entitled to points added to a passing grade and appointment preference.</p> | <p>2. Ten points shall be added to the final grade of any war veteran as defined in Section 67.13a of Title 72 of the Oklahoma Statutes who has passed the examination and has submitted proof of having a service-connected disability as certified by the Veterans Administration or Agency of the Defense Department within six (6) months of date of application [74:840-4.14(A)(3)]. 3. In addition to the 10 points preference provided in (2) of this subsection, such eligible war veterans who are in receipt of benefits payable at the rate of 30% or more because of the service-connected disability, shall be considered Absolute Preference Veterans. Their names shall be placed at the top of the register, ranked in order of their examination scores. Absolute Preference Veterans shall not be denied employment and passed over for others without showing cause. [74:840-4.14(A)(3)]</p> | | | |
| | <p>Absolute Veterans Preference refers to two aspects of the hiring process. First, preference points are awarded to the passing scores of veterans when they apply for open competitive grades. The points vary depending on the nature of the military service and the status of the veteran. Second, when an agency hires from the open competitive eligibility list, it must consider veteran applicants before non-veterans.</p> | | | | |
| <p>NON-NUMERICAL SYSTEM POSITIONS FOR PREFERENCE ELIGIBLES ONLY</p> | | <p>Direct Hire Authority 530:10-9-111 and 10-9-112 [74:840-4.13(C)]. Applicants for LPN, RN, and Nurse Manager positions may apply directly to the veterans centers. Special Disabled Veterans 530:10-9-100 Veterans with 30% or more service-connected disability may be hired directly at this agency, in accordance with the "Persons with Severe Disabilities Program", [74:840-1.15] and Senate Bill 200. This program provides exemption from entrance exams and other hiring procedures. A one-year probationary period applies. Noncompetitive Appointments 530:10-9-95 Appointing Authorities who have classes of positions of unskilled or semi-skilled labor, or similar classes designated by the Administrator as noncompetitive, may appoint qualified veterans or non-veterans in accordance with 530:10-9-71 and 530:10-9-92.</p> | | | <p>Veteran's preference is determined by active military service for more than 180 consecutive days, or a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized. Disabled veteran's preference is determined by active military service with any percentage of disability incurred in the line of duty, or receipt of a purple heart, whether or not the person completed more than 180 days of active duty. A retired member of the armed forces who retired below the rank of major or its equivalent is eligible for veteran's preference.</p> |
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| | California | Wisconsin | North Dakota | Minnesota | South Carolina |
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| STATUTE | <p>Veterans Preference Points are awarded in open and open nonpromotional entrance examinations requiring less than college graduation and two years of experience. In OPEN examinations, eligible veterans, widows/widowers of veterans, and spouses of 100% disabled veterans receive 10 points. Eligible disabled veterans receive 15 points. In OPEN NONPROMOTIONAL examinations, eligible veterans receive five points. Eligible disabled veterans receive 10 points.</p> | <p>Due to recent changes, veterans who served on active duty under honorable conditions for at least two years or the full period of their initial service obligation, whichever is less, may be eligible for veterans' preference points. Veterans discharged for a service-connected disability, hardship or reduction of forces prior to the completion of the required service period may also be eligible. These changes apply to applications submitted on or after October 14, 1997, by veterans who are not permanent state employees in the classified service. In addition, veterans with qualifying wartime service may be eligible for preference points. "Qualifying" means that the veteran served during one of the wartime periods or in a qualifying campaign (listed below), and is not a current state employee in classified service.</p> | <p>Public employment not only includes temporary and permanent employment with the State of North Dakota, but all political subdivisions, such as cities and counties.</p> | <p>The Minnesota Veterans Preference Act (VPA) grants most veterans a limited preference over non-veterans in hiring and promotion for most Minnesota public employment positions, as granted in Minnesota Statutes 197.48, 43A.11, and 197.455. The Minnesota VPA Statutes apply to Minnesota public employment, "civil service laws, charter provisions, ordinances, rules or regulations of a county, city, town, school district, or other municipality or political subdivision of this state."</p> | <p>Preference will be granted to eligible members for employment and/or an appointment in public departments or public works operating on a merit system. Eligible members: Must be Honorably discharged from the Armed Forces of the U.S. Must possess the skills and knowledge required for the position involved.</p> |
| CATEGORIES OF PROTECTED INDIVIDUALS REQUIRED NOTICE BY EMPLOYERS EMPLOYMENT PREFERENCE WHEN A NUMERICALLY BASED SELECTION PROCESS IS USED | | <p>Points may be granted as follows: 10 points as a non disabled veteran. 15 points as a disabled veteran whose disability is less than 30%. 20 points as a disabled veteran whose disability is 30% or more. 10 points as a spouse of a disabled veteran whose disability is 70% or more. 10 points as an unremarried spouse of a veteran who was killed in action or died from a service-connected disability.</p> | <p>Veteran, for the purposes of employment preference means a North Dakota resident who has served in the active military forces during a period of war, or who received the armed forces expeditionary or other campaign service medal during an emergency condition, and must have been released therefrom under honorable conditions. Disabled veteran means a veteran who meets the requirements listed above who has a service-connected disability as determined by the United States Veterans Administration and the disability must exist at the time of application. Eligible spouse means the unremarried spouse of a deceased veteran who died while in service, or later died from a service-connected cause or causes; or the spouse of a disabled veteran as defined above, who because of his or her disability is unable to exercise his or her right to employment preference.</p> | <p>The term "veteran" means a citizen or resident alien of the United States who has separated under honorable conditions from any branch of the armed forces of the United States if: he or she has either served on active duty for 181 consecutive days, has been disabled while serving on active duty, has active service as a reservist. Veterans' Preference may be used by the surviving spouse of a deceased veteran and by the spouse of a disabled veteran who because of the disability is unable to qualify when making an application for employment.</p> | |

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| NUMERICAL SYSTEM | | | | <p>The public employer must apply the Veterans' Preference laws during the hiring process. Regardless of the system selected to identify qualified applicants for an interview, preference points must be assigned. When the employer administers a written, formal test as part of the hiring process the law requires the test be rated on an 100 point scale. A veteran who achieves a passing score on the test is given an additional 5 points added to the passing score. A disabled veteran is entitled to have 10 additional points added to the passing score. (A disabled veteran is defined as a person who has a compensable service connected disability as adjudicated by the United States Veterans Administration, or by the retirement board of one of the several branches of the armed forces.) Preference points are added only when the applicant receives a passing grade.</p> | |
| NON-NUMERICAL SYSTEM POSITIONS FOR PREFERENCE ELIGIBLES ONLY | | | <p>Veterans preference laws include some different provisions for agencies covered by the North Dakota Merit System, but in most cases veterans who meet the advertised minimum qualifications must be employed over other qualified non-veterans. Veterans who meet the minimum qualifications of positions and are not employed, must be notified by certified mail that employment was refused. These veterans may appeal the non-selection.</p> | | |
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| | | | <p>Agencies should be specific when minimum qualifications are established for vacancies.</p> | <p>Veterans' Preference laws provide that 5 points are added to the competitive promotional examination rating of a disabled veteran.</p> | |
| | | | <p>Agencies should use an application form which asks applicants if they wish to claim veterans preference and describes documentation required for the claim.</p> | | |
| | | | <p>Agencies should be sure to notify qualified veterans who are not selected, by certified mail.</p> | <p>Whenever a public employer fails to hire a veteran who has received veteran's preference, the employer is required to notify the veteran in writing of the reasons for reject</p> | |

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| | Mississippi | Iowa | | | |
| STATUTE | | Code of Iowa Chapter 35C extends a preference to hiring military veterans of qualified wars. The chapter specifically requires that "honorably discharged persons from the military or naval forces of the United States in any war in which the United States has been engaged who are citizens and residents of this state are entitled to preference in appointment and employment over other applicants of no greater qualification." | | | |
| CATEGORIES OF PROTECTED INDIVIDUALS REQUIRED NOTICE BY EMPLOYERS | | 1. Being a citizen of the State of Iowa 2. Service during any war, campaign, or expedition for which a campaign badge or service medal has been authorized. a. WW 11 service during the period December 7, 1941 through December 31, 1946 b. Korean service during the period of June 25, 1950 through January 31, 1955 c. Vietnam service during the period August 5, 1964 through May 7, 1975 d. Persian Gulf Conflict service during a period starting August 2, 1990 with an ending date yet to be established. | | | |
| EMPLOYMENT PREFERENCE WHEN A NUMERICALLY BASED SELECTION PROCESS IS USED | | | | | |
| NUMERICAL SYSTEM | The State Personnel Board grants each veteran who is fully qualified preference over other applicants for initial or promotional appointments (5 points). Disabled veterans are given additional preference (10 points). | In order to determine if a veteran qualifies for veteran's points, their official separation papers, such as military form DD 214, must be reviewed. Information to be reviewed includes periods of active service and what medals, such as Armed Forces Expeditionary Medals, have been issued. Veterans who have been awarded a Purple Heart Medal during their period of service are eligible for ten point veteran's preference based on disability. Veterans who submit documentation from the Veteran's Administration that they have a service-connected disability are also eligible for ten points. Verification from the Veteran's Administration must be resubmitted every 24 months. | | | |
| NON-NUMERICAL SYSTEM | | | | | |
| POSITIONS FOR PREFERENCE ELIGIBLES ONLY | | | | | |
| | In state layoffs, veterans are granted preference and additional preference is given disabled veterans. | | | | |
| | | | | | |
| | | | | | |
| | Idaho | | | | |

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|--|--|--|--|--|--|
| STATUTE | <p>Idaho Law provides Veterans preference points for individuals who have been in active service, other than active duty for training, of the United States as defined by Idaho Code, Title 65, Chapter 5, Section 502(6), and U.S.C Section 2108. (See specific eligibility information below). Veterans preference points are also provided for individuals who have served on active duty in the armed services, have been discharged honorably, and who have a present service connected disability of 10% or more, or are a Purple Heart recipient. Veterans preference points are added to the final passing score and may improve a Veterans position on a list of qualified candidates. The preference points added are used only for initial appointment and not for promotions, transfers, or reassignments. Veterans preference requires public employers to provide additional consideration for eligible veterans, but it does not guarantee the veteran a job.</p> | | | | |
| CATEGORIES OF PROTECTED INDIVIDUALS REQUIRED NOTICE BY EMPLOYERS | <p>Served on active duty in the armed forces at any time, and separated under honorable conditions and has established the existence of a service-connected disability of 10% or more or are purple heart recipients; OR Served on active duty at any time from December 7, 1941 and ending July 1, 1955; OR Served on active duty for 180 consecutive days, any part of which occurred after January 31, 1955, and before October 15, 1976; OR Served on active duty at any time from August 2, 1990, and ending on January 2, 1992; OR Served on active duty for a period of more than 180 consecutive days, any part of which occurred during the period beginning on September 11, 2001, and ending when prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom; OR Have been awarded an Armed Forces Expeditionary Medal (AFEM), whether listed here or not**, is qualifying for Veterans preference. Examples of some of the most common campaign medals are; Vietnam (Service Medal), El Salvador, Lebanon, Granada, Panama, Bosnia, Kosovo, Afghanistan, Southwest Asia (Persian Gulf), Somalia</p> | | | | |
| EMPLOYMENT PREFERENCE WHEN A NUMERICALLY BASED SELECTION PROCESS IS USED | | | | | |
| GENERAL SYSTEM | <p>5 points Preference eligible Veterans discharged under honorable conditions, or the widow or widower of a preference eligible veteran, as long as she or he remains unmarried, are eligible for five (5) points preference. 10 points Disabled veterans are defined as any individual who has served on active duty in the armed services at any time, who has been discharged under honorable conditions, and who has a present service connected disability of 10% or more or are purple heart recipients. They are eligible for 10 points that will be added to the earned rating and shall be placed on the register in accordance with their augmented rating. Widow or widowers of any disabled veteran or purple heart recipient honorably discharged may also claim the 10 points if he or she remains unmarried. Spouses of disabled veterans may claim preference if the veteran is unable to qualify for any public employment because of a service-connected disability.</p> | | | | |

| | | | | | |
|---|---|--|--|--|--|
| | <p>10 points with offer of interview Disabled veterans discharged under honorable conditions who served on active duty in the armed forces at any time and who have a service connected disability of 30% or more shall be offered an interview if they are one (1) of the top ten (10) qualified applicants. Widow or widowers of any disabled veteran may also claim the 10 points if he or she remains unmarried -- however they will not be guaranteed an interview if he or she is one (1) of the top ten (10) qualified applicants.</p> | | | | |
| <p>NON-NUMERICAL SYSTEM POSITIONS FOR PREFERENCE ELIGIBLES ONLY</p> | | | | | |

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER: VETERANS, MILITARY &
HOMELAND SECURITY AFFAIRS
MEMBER: COMMERCE & LABOR
MEMBER: JOINT COMMITTEE ON ARTS AND
CULTURAL RESOURCES

L. CANDY RUFF
REPRESENTATIVE FORTIETH DISTRICT
LEAVENWORTH COUNTY
321 ARCH
LEAVENWORTH, KANSAS 66048
(913) 682-6390

STATE CAPITOL, ROOM 322-S
TOPEKA, KANSAS 66612
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E-MAIL: Ruff@house.state.ks.us

To: Committee on Veterans, Military and Homeland Security

From: Rep. L. Candy Ruff

Re: HB 2562

Date: March 14, 2007

In the 1880s when fifty five percent of lawmakers had fought in the war to save the Republic, the Kansas Legislature passed landmark legislation benefiting veterans. From giving \$50,000 to my city of Leavenworth to use as an incentive in attracting the Western Branch of the national Military Home, the forerunner of today VA Center, to establishing the state-supported Soldiers Orphans Home in Atchison, lawmakers were taking care of veterans and their families. Important to HB 2562 was the Ex-Soldiers Preference for Employment or what we have come to know as Veterans Preference. Our 19th century counterparts wanted Civil War veterans to be given an absolute preference when it came to working in public sector employment, and that was state, cities and counties. They also passed legislation that forbids destitute soldiers and their families from being placed in the county poorhouse, instructing county commissioners to give these families shelter, food and coal. Federal pensions had begun to reach most disabled Civil War veterans by the 1880s and these who could not find a home in the federally-supported National Home in Leavenworth were able to turn to the newly opened state-supported Soldiers' Home in Dodge City.

Until 1907, veterans' preference in Kansas was determined on what was called an equal qualifying basis. When all else was equal in the qualifications, the veteran got the job. Where that got legislators in trouble was in its interpretation. Equality like beauty was in the eye of the beholder. And because the hiring authority, a state agency director or the mayor of a city, decided what passed for equal qualifications, there was no place to appeal those decisions. And as you can imagine, the law was applied in varying degrees all over Kansas forcing the Legislature to change the language in 1907. From that point forward veterans needed to show that they were competent to meet the qualifications for the jobs they were seeking in addition to having a good reputation and character. Veterans' preference began to apply in two sections of our state statutes with passage in 1941 of the Kansas Civil Service Act. Veterans in state employment were awarded a 10 point preference to be added to their overall examination scores. In 1995, the state did away with examinations asking for authority through rules and regulations to adopt another method of awarding veterans preference. I'll get to that outcome in a minute. Cities and counties in the meantime operated under KSA 73-201. My goal today is to change the state statute in order for veterans' preference to consistently apply to all public sector employment, i.e., state, cities and counties.

Let me take you back to that 1907. As you would expect to occur in case law following such a change the Kansas Supreme Court established a standard of competency for determining the eligibility for veterans preference that we have pretty much been following for nearly a hundred years. As our committee reviews KSA 73-201 and KSA 75-2955 and decides to make changes through HB 2562, I am offering of policy and administrative changes to insure that legislative intent is carried out. Drawing from past statutes and Kansas Supreme Court rulings, I have used the language from yesterday to fashion today's legislation.

First of all, I believe the Kansas Legislature should remove the current "standard of competency" and substituted instead this phrase: "abundantly qualified to meet all the requirements which the best public service may demand." Although drawn in part from a century-old court decision, the case law remains applicable and is essential to any discussion of what the veterans' preference law actually requires.

When first written, the words in KSA 73-201 pretty much said that a veteran should be hired over a non-veteran at every level of state and local government. But over the years, the Kansas Supreme Court has said, not so fast. The hiring authority was authorized by the Court to have what is called significant discretion to determine the "competency" of candidates for public positions. Over the years that means the original statute from 1886 went from being an absolute preference to a more limited one. We are not here to argue that point.

The Court decided it wasn't going to stick its nose into second guessing the hiring authority or substituting its judgment. What the Court insisted was that the hiring authority be held accountable and act in good faith. And that is where we have an obligation to veterans in the 21st century. It should be the legislative intent of this bill to hold those hiring authorities accountable for their actions, insisting that in decisions regarding veterans' preference their decisions are made honestly, fairly and in good faith. Our challenge will be to define how we expect the hiring authority to act in good faith and explain how it honestly and fairly evaluated veterans on the merits of being "abundantly qualified" to meet the requirements of the job posted.

In the past, the Legislature's lack of what was called more succinct language hampered our veterans' preference statute, giving it very limited enforceability. It will be our intention to craft this bill in such a way that enforceability will stand as its hallmark. We owe Kansas veterans that much. We will draw and learn from the weaknesses of the past and make it our strength in the future.

Here are some important points to remember:

In ruling that "competent" required more than merely meeting the minimum qualifications for a position, the Court also insisted that veterans seeking preference need not be the "best qualified" candidate. Because if that were the case, the court said veterans' preference law would be meaningless. All hiring and promotional decisions would be made strictly on the basis of merit, notwithstanding a veteran's eligibility for the preference. As we consider changing the standard of competence to abundantly qualified, our challenge in enforcing the law will be this. Realizing the Court established a subjective standard in the hiring authorities' determinations of candidates' qualifications and knowing their decisions will be given great deference by the Court, our goal must be to place the burden of proof on the hiring authority. It is my intention that the burden of proof is placed solely on hiring authorities to establish criteria, how to meet criteria and then explain what happened in the selection process. It remains the hiring authority responsibility to establish beforehand these provisions:

Establish a criteria for "abundantly qualified" to meet the qualifications for positions in public sector employment.

Provide a means for meeting the criteria veterans must meet in the "abundantly qualified" standard

Prove qualified veterans are placed in a pool of available candidates for consideration, then guaranteed an interview.

Justify within 30 days of selecting a non-veteran, how the utmost in good faith was followed in rejecting the veteran applicant. The Court said “placing the burden of proof on the hiring authority is justified because the utmost good faith is demanded in the rejection of veteran applicants.”

The legislative intent of HB 2562 is justified in placing the burden of proof on the hiring authority because the utmost good faith is demanded in the rejection of veteran applicants. Because the Court has ruled the hiring authority is given the discretion and judgment to determine who is best qualified to serve the public, accountability must be guaranteed for Kansas veterans. Placing the burden of proof on the hiring authority follows the original intent of the statute.

But what happened in 1995 with the state’s Civil Service handling of veterans’ preference that has resulted in a legislative post audit? When the state did away with giving examinations, it had to come up with another way to give veterans preference. The Division of Personnel Services asked to solve the dilemma by rules and regulations. But an amendment added at the time insisted that solution not result in a decrease in veterans’ preference being given Kansas veterans.

To tell you the truth, I don’t know if that has occurred. In exchange for 10 points added to the written examination test score, the state gave veterans an interview and called it veterans’ preference. Now, when they give testimony, I’ll let them justify that move. You can be assured that one of the provisions of this legislation will be to call upon the Division of Personnel Services to prove that veterans’ preference has not decreased under its new regulation.

However, there is a legislative post audit underway investigating whether state agencies are intentionally denying veterans access to employment because the interview guaranteed in the form of a veterans preference falls short of meeting veterans’ needs. The audit results will be available in late April.

As we begin to work HB 2562, please be assured that the bill you see before you is not the bill we will recommend for passage. However, some issues will need further discussion. When the statute was first written, the language mentioned consideration for appointments and employments. Not once was new hires or promotions mentioned in statute. The Court ruled in a recent decision that if the Legislature had wanted to limit veterans’ preference to only new hires, it would have done so. The state’s Civil Service has always included promotions as well as various cities and counties. There is also the issue of how often veterans preference may be invoked. In Kansas it has never been limited.

TESTIMONY BEFORE THE
VETERANS, MILITARY AND HOMELAND SECURITY COMMITTEE
HB 2562

My name is John Strahan, and I speak to you today on behalf of the Veteran's of Foreign Wars, an organization of which I am a life member and past Judge Advocate of Post #1650, in support of House Bill 2562. I support this legislation because of my personal experience as a Vietnam veteran. That experience has been enhanced by some 35 years as an attorney for the State of Kansas. Besides my professional duties working for the State as a lawyer I retired from the Kansas National Guard with the rank of Lt. Colonel. This gives me a working knowledge for advocating the legislation that is before you today.

When I left active service after Vietnam I returned to Kansas to regain my previous job as a State attorney. Prior going to the service, I had informed my State employer that I was leaving State employment only to go to the military upon orders. Upon my return, I was informed that there was no place for me. The only way that I was able to get back into State service was through pro- veteran's legislation. In this case my protection was the Soldiers and Sailors Civil Relief Act.

The loss of competitive time from civilian life for military service is too disadvantageous for the returning veteran. This is particularly true of modern conflicts involving National Guard soldiers who must serve multiple terms of military service in a combat zone. The disadvantage also relates to advancement opportunities as the soldier returns to the workplace after a series of career disruptions.

I am speaking primarily in support of two portions of the act. First, subsections (e) and (f) provisions that mandate the government provide information on the preference to the veteran. Informed notice is very important when dealing with the complexities of a governmental human resources department. The government should also be aware that the veteran will have knowledge of his complete rights. This will help dispel staff confusion when an agency must address veteran's preference.

Finally, there is a subsection (g) allowing reasonable attorney fees up to the amount of \$10,000 for each incident. My experience indicates that government administrators respect the power of the courts. A primary advantage of government remains the ability to pay for lawyers. Having one side in a lawsuit with a paid lawyer and one side paying out of their pocket is unfair. This tactical advantage of monetary resources is not lost on the administrator. Most government employees are not rich. They cannot afford long- term litigation which easily may cost tens of thousands of dollars. Giving a veteran the opportunity to recoup at least part of his costs may be his only way to secure counsel and protect his rights.

This legislation would refresh the law regarding the traditional veteran's preference. The law has been allowed to effectively lapse through use of 'interviews' rather than a proper competitive preference. Furthermore , there seems to be a practical dismissal of the preference during subsequent advancement procedures. Citizens who give up the time from the workforce to risk their lives for their Government should receive fair treatment from that Government.

Thank you for giving me the opportunity to appear before you today, and I will stand for questions.

Testimony of Lawrence G. Rebman, Attorney
818 Grand Blvd. Suite 400, Kansas City, MO 64106

RE: House Bill 2562

It is my opinion that HR 2562 as written should not be passed because it diminishes the current Veterans' Preference Act, K.S.A. 73-201, which currently requires public entities to appoint veterans to employments positions if they meet the requirements of the statute. The proposed bill is vague, incomprehensible and would undermine public policy by reducing benefits to our veterans, most egregiously in this time of war.

During the last four years, I have been engaged in litigation against the City of Leavenworth in an attempt to enforce the Kansas Veterans Preference Act on behalf of three police officers. Each of these officers sought a public position to which a non-veteran was ultimately promoted. With respect to, two of the police officers there is no dispute that they meet the requirements of the act, with respect to the third there is only a baseless dispute as to his competency. The first case is currently being appealed for the second time and the second case is about to be appealed. The appeals concern an interpretation of the statute and a dispute about the terms "appointment" and "competent" – two words of common and general meaning.

The Kansas Veterans' Preference Act has been plagued by issues of interpretation and a subjective "competency" standard that has rendered it useless for 100 years. In fact, the Kansas Attorney General Opinion 2006-21 notes "Read literally, we agree that K.S.A. 73-201 requires almost carte blanche hiring of a veteran over a non-veteran for jobs in every division of State and local government. The Kansas Supreme Court, however, repeatedly has construed the law as giving hiring authorities significant discretion to determine the competency of candidates for public positions, thereby rendering the statute more subjective than objective."

HR 2562, as written, is so vague and unclear, especially in light of the interpretation issues that we are confronted with in the current act, that any benefit that it grants would be legally unenforceable thereby making it a meaningless. Not to mention the fact that it diminishes the current benefit available to our veterans. In truth, the current Veterans' Preference Act is not vague and grants our veterans an absolute preference. I believe that the current litigation and appeals will address any remaining issues of interpretation in favor of veterans and I suggest that we await the outcome of these appeals before changing or amending the current law. Any change in the law should require an objective selection process which may include job descriptions, written test, interview panels and affirmative specific written determinations of a lack of competency which are subject to judicial scrutiny. Furthermore, veterans should be allowed a jury trial in enforcement actions. Lastly, the legislature should reconcile the penalty provisions of K.S.A. 73-202 with those in H.R. 2562.

In sum, I believe that a decision, by this legislature, to replace the current Veterans' Preference Act with an act that is vague, unclear and, in fact, grants a meaningless and diminished preference would be an affront to the men and women who have and who are currently sacrificing their own lives to protect and serve our country in this times of war.

Madam Chairperson and committee members.

My name is Ralph Sorrell and I am honored to be able to speak to you today on the subject of Veteran's Preference.

I will simply tell you my story.

Back in 2002 there was an opening in the Leavenworth Police Department for a Sergeant's position.

The requirements were simply this:

1. Graduate of High School or GED equivalent with some undergraduate college course hours completed,
2. A minimum of three years continuous employment as a certified police officer with at least one year with the Leavenworth Police Department, and
3. Possess a valid KS driver's license.

There were some desirable qualifications included:

1. Bachelor of Arts or Science degree from an accredited college or university,
2. Demonstrated effective performance as a police corporal or detective, and
3. Has broad experience in the Leavenworth Police Department encompassing different assignments, units, and participation in departmental activities.

Now comes the process that is also fairly simple and it includes three parts:

Part 1: Basically is taking a test of general police supervision, police operations and legal issues. You must pass with 70% or greater.

Part 2: This part can consist of a number of exercises, interviews, and problems designed to test and assess a candidate's ability to respond to and address issues from a supervisory perspective. It also will consist of

external police managers, business professionals and citizens may be used to evaluate the candidates in this portion.

Part 3: The test score from part 1 and the assessment evaluation from part 2 are added and a rank ordered list is established. The top three are chosen and then their scores are wiped out. They then go into a command interview with the Chief and Deputy Chief. Specifically stated is the fact that the "Previous scores attained by these candidates in Part 1 and Part 2 of this promotional process will not be given further considerations. The final candidate will be selected from these three.

This all seems legitimate on the outside. But let's look at the history.

These facts are part of the court record in my legal case against the City of Leavenworth specifically, the HR director, the City Manager and the Chief of Police. The facts have come out in court or in sworn depositions over the past 4.5 years.

Since I have worked for the city every promotion has been done differently.

A. Part 1. Sometimes there is a test and sometimes there is not one. Additionally the city's own ordinance specifies that a "certified listing of eligibles" be established. This is defined as a list of the top five or one more than the number of openings. In my case the officer who was chosen was at the end of the list but was allowed in violation of the ordinance to go on.

When I was notified of my passing test score I asked for the veteran's preference points to be added to my score. I was told that we do not do that any more. A key note here is that I and the other officer that filed papers against the city are the only two officers, both of us Veterans, that have been denied the veteran's preference points. Now understand that there is no law that requires these points to be added. The city simply has added them to the scores of every veteran before us and the officer that asked for them after us.

- B. Part 2. The assessment center. This is done differently also. Those outside people that would make the process more objective. They were not used. Projects and paperwork exercises were graded in-house. I was told I was in the top three and would go onto part 3. I asked as I always do for my score and I was told that they did not exist. No one seemed to have these scores.
- C. Part 3. I completed the command interview and remember that candidate who did not have a high enough score to move on from part 1, he was the candidate that was selected.

I have been told several things as to why I was not chosen. I believe that I know the real reason. Let's look at some facts. Several articles have been written in the local paper about our case. I have refrained from writing letters to the editor because I let the court deal with the facts and not rumors. Many people think that I and the other officer simply went to the chief's office and stated that since I am a veteran, you must give me that job. This is biggest fairy tale ever told. I took the exam and passed. I passed the assessment center. And I was clearly more qualified than the officer that was chosen.

Remember those minimum requirements and the desired qualifications? The facts are that I had a bachelor's degree and he did not. I have had more and varied jobs in the department than he had. I have several evaluations as a "Special Investigations Detective" and the other person had no detective experience. I served and still do on the employee council an elected position and he never did. These are just current job experiences. I have had no disciplinary problems, no wrecked vehicles and have to date not missed one day to illness or injury. He can not say the same.

Additionally, I am a graduate of the United States Military Academy and have served in staff functions from Battalion to Brigade. I have served as a commander and have attended numerous management and staff

development schools. Details are in the resume I provided. Now I am not demeaning anyone's prior job experience but his past experience was stocking shelves in a grocery store.

The sad thing is that the decision was made on one thing and that was the command interview. Court documents show that nothing else was considered. Who set the standards? In court testimony it was revealed that the standards and questions for the interview were not established. It is simply a process that is made up each phase after it is determined who is on the list.

If the chief really wanted the best candidate he would have required a bachelor's degree. I am still qualified. This would have wiped out six other candidates. Add in the requirement for some management time. This would have left me alone as the only qualified candidate. The system can work. Recently we have had several veterans' go through the process. They could not pass the test and were thus disqualified. Again the system works. This law will not stop the best candidates from being selected and it will not create a system where all the jobs are given to veterans. They still must qualify for the positions and the only one that sets those standards is management. No law should ever be passed that that would undermine the ability of management to set the standards. I am only asking that you consider the help that veterans need to make up for the lost time they have spent supporting the country and the sacrifices they endure in the job market.

You will hear that the chief or management should have total power on who to promote and who not to. You will be told that they always pick the best candidate. In the case of my department that has not been true. In reality the system is manipulated each time to "get the person you want". In depositions he did not deny that we could do the job. He stated that he simply picked the best person.

Let's look at one more piece of history. Remember those top three candidates. In the past those people have been left on a promotion list

and when there was another opening the next person would be picked off of the list. But like so much of our system this does not always happen and when there are people that are not wanted the list is never created. Just the single person is chosen and the process starts over for the next opening. Here recently the list is back.

In small town America it is sometimes hard to compete with the local sons and daughters that have grown up in the community. There are the fathers and grandfathers that have influence in the community. Don't for one second think that there are not calls to managers/decision makers when it comes to people getting promoted. The good old boy organization is alive and well. As a veteran that did not grow up in the community, my Dad did not work for someone who knows someone.

This is just one story. And I am not here to convince you that you need to change this statute for me. You do however need to either change it or fix it to help protect the veteran's of this state against the unethical managers that do not like veterans. Currently the department has three officers that are deployed. What about them. They were left out of this process and will never get that chance back. There are many soldiers that pay a high price for being pulled from their jobs be it deployments over seas or here stateside for disasters such as Katrina.

Why do we need laws? Laws are simply to protect people in society and without laws we would have chaos. Don't think for a minute that every business, governmental agency or manager operates fairly. An extreme example is all of the CEOs that have done irreparable damage such as Ken Lay at Enron. These companies simply moved paperwork and fixed ledgers to make the company appear to be in better shape that it was. Be careful of management that changes procedures each and every time they act.

Additionally there are hundreds of companies in the country that do support veterans. They are not the ones that would be affected by this law. They do great things such as make up the difference in pay from

the deployed soldier's civilian salary and what they earn in the military. There are many other examples out there of veteran support.

You will undoubtedly hear from many people that will say that this law is unfair and that it unfairly burdens management and stops their ability to promote the best possible candidate. First of all the Federal government lists six classes of people and provides them with legal protections. They become protected classes of citizens. These are racial/ethnic, sex (gender), physical or mental, age, religion and veterans. You must protect the service men and women who defend the freedoms that we all enjoy.

I thank you for your time and would answer any of your questions.

Follow on if time:

Let me introduce myself. My name is Ralph Sorrell and I am a member of the Leavenworth Police Department. I have been employed there for over 11.5 years.

I am currently assigned as the afternoon shift sergeant. I am certified as a Field Training Officer to train new recruits, I am a certified armorer for the department's handgun, and I am a certified instructor in the disciplines of handgun, shotgun and the patrol rifle. I am also one of the department's range safety officers. I am a member of the Special Tactics and Response team (commonly know as a SWAT team). In that capacity I am specialized in Weapons of Mass Destruction and I am a certified marksman (commonly referred to as a Sniper). I have been trained by the Drug Enforcement Administration as Clandestine Laboratory certified and have had follow on training by the Departments of Public Safety in Missouri, Iowa, Texas and Florida. I am certified as a site safety officer for hazmat operations and am certified to wear all levels of protection to include level A (commonly called a Moon Suit). I also am a member of the Kansas City Metro Disaster Tactical Response Team. I will refer to some of my military background later.

Sergeant Ralph Sorrell

Objective

General Resume

Experience

2006-Present

Leavenworth Police Department
Patrol Division/Afternoon Shift

Patrol Sergeant

- Works under the general supervision of a Police Lieutenant.
- Supervises police officers and other assigned staff as assigned.
- Supervises the scheduling and coordinating of shift changes.
- Reviews a variety of police related reports prepared by subordinate officers.
- Makes day-to-day police assignments as required by the needs of the service.
- Analyzes and recommends improvements to equipment and facilities as needed.

2002-Present

Leavenworth Police Department
Patrol Division/Afternoon Shift

Patrol Officer

- Tasked with enforcing Local, State and Federal Laws.
- Patrols a district in the City of Leavenworth.
- Answers calls for service, assists citizens, and deters crime.
- Enforces State Traffic laws, investigates accidents.
- Writes reports, collects evidence, and testifies in court.
- Consistently a top performer in the patrol division.
- Field Training Officer for new officers.
- Special Tactics and Response team member.
- Assigned as department's only certified sniper.
- Member of the Kansas City Metro Disaster Tactical Response Team.
- Shotgun/Handgun/Patrol Rifle Instructor.
- Glock certified Department Armorer.
- Site Safety Officer Certified.
- Clandestine Laboratory Certified.
- Clandestine Laboratory Tactical Entry Certified.
- Received numerous awards, citizen commendations and letters of appreciation.
- Maintained a perfect attendance record and no chargeable traffic accidents.

2001–2002

Leavenworth Police Department
Detective Division, Narcotics Unit

Narcotics Officer

- Tasked with enforcing Local, State and Federal Drug Laws.
- Prepares and presents cases to Local, State and Federal Prosecutors for prosecution
- Develop cases as well as investigates cases assigned.
- Must maintain confidentiality of Confidential Informants.
- Develop probable cause for search warrants and present to State and Federal Judges for signature.
- Work as case agent, supervise crime scenes and execute search warrants.

1997–2001

Leavenworth Police Department
DEA Clandestine Lab Group 43

Task Force Officer

- Seized the largest LSD Laboratory DEA has ever prosecuted. I was the Co-Case Agent.
- Involved in processing over 400 clandestine methamphetamine labs.
- Processed ephedrine reduction, NAZI and P2P labs.
- Maintains and orders all lab group equipment and safety items.
- Trained by DEA chemists as well as Texas, Iowa, Kansas, Missouri and Florida chemists in the manufacturing process.
- Attended the DEA basic Narcotics Investigation Class.
- Attended the DEA Clandestine Lab School.
- Two week Multi Jurisdictional Task Force Investigation School through St. Petersburg College, St. Petersburg, Florida.

1995–1997

Leavenworth Police Department

Police Officer

- Consistently selected as officer of the month for Midnight shift.
- Selected over other officers to represent the department in the DEA Task Force.
- Honored for perfect attendance and 100% accident free miles.

1993–1995

K. U./Shawnee

Student/Car Salesman/Carpenter

- Worked on Masters Degree in Engineering Management at the University of Kansas.
- Worked as a carpenter and car salesman during this time waiting to be hired by the Leavenworth Police Department.

1976–1993 U. S. Army

Soldier (Private through Captain)

- Enlisted in the U. S. Army as a Private E-1.
- Graduated as a Medical Lab Technician.
- Selected to attend the United States Military Academy at West Point.
- Graduated from West Point, degree in Aerospace Engineering.
- Held various jobs in the Field Artillery.
- Commanded as several echelons in the U. S. Field Artillery
- Gunnery Instructor at the U. S. Field Artillery School.
- Designed several classes to teach ballistic computer classes.
- Procurement/Project Officer for several major multi-billion dollar weapon systems at Fort Leavenworth, Kansas.

Education

1972–1976 Highland High School

- Graduate, Honor roll Student.

1978–1982 United States Military Academy

- Graduated with a degree in Aerospace Engineering.
- Selected as a student officer on the Regimental Staff.

1982 Field Artillery Center

- Graduated Field Artillery Basic Course (Honor Graduate.)

1986 Field Artillery Center

- Graduated Field Artillery Advanced Course (Honor Graduate.)

1989–1989 Combined Arms Service Staff School

- Selected as project leader for this 9 week course.

1990–1990 Logistics Management School

- Graduated as an Honor roll Student.
- Selected as the recipient of the American Defense Preparedness Association Award.

Awards/Certifications

- DEA Administrator's Award.
- United States Attorney's Guardian of Justice Award.
- County Merit and Certificate of Achievement Awards.
- Police Life Saving Award.
- Police Commendation Award.
- Police Meritorious Service Award.

- Police Achievement Award.
- Field Training Officer.
- Member of the Leavenworth Police Department STAR Team.
- FBI Certified Tactical Marksman (Sniper).
- NRA Range Instructor Shotgun/Handgun/Patrol Rifle.
- Low Level Light Instructor.
- Glock certified Armorer.
- DEA Clandestine Laboratory Certified/Site Safety Officer Certified.
- Certified Multi Jurisdiction Drug Task Force Investigations.
- Weapons of Mass Destruction Technical Emergency Response Trained.
- Weapons of Mass Destruction Tactical Operations Course.
- Covert Surveillance Equipment Engineering Course.
- Kansas City Metro Disaster Tactical Response Team Trained.

TESTIMONY REGARDING HB 2562

George Webb

Executive Director, Kansas Commission on Veterans' Affairs

March 13, 2007

Thank you for the opportunity to comment on HB 2562 and changes to the Veterans preference program. In recognition for their service to the Nation, the Agency is in supports the veterans who would be beneficiaries of this program. I do have a few comments.

First, if this bill seeks to refine the definition of a veteran, and within that definition it uses the term "armed forces," then the Coast Guard should be included. Both Title 10 and Title 37 US Code include the Coast Guard as a member of the armed forces. (Source: 10 U.S.C. § 101(4)-(5) and 37 § U.S.C. 101(3)-(4))

Second, rather than reciting a string of wars and combat operations, it may be more helpful to state that the veteran must have served in combat, in a combat theater of operations, or during a period of wartime service (assuming that the Legislature desires that veterans preference be offered only to that cohort). KARs could keep that list current.

Third, as we consider how to clarify this statute, the term "preferred" is not defined. This absence causes routine confusion. Many veterans and veterans organizations belief that the term mandates an automatic selection of the veteran over the non-veteran, provided that the veteran is qualified (i.e., the vet gets the job as long as he or she meets the minimum qualifications). However, my correspondence with the Attorney General on this subject reveals that legally, the term means that some advantage must be given, but that this advantage is undefined and is essentially left up to the hiring component. Hence, the State's Division of Personnel Services, without a point system for hiring, mandates that a veteran must be granted an interview. While inadequate or unpalatable to some, this policy meets the definition of "preference." If KSA 73-201 is amended, this would be a good time to clarify the term "preference" or "preferred." Similarly, the term "absolute 10% preference" does not fit in cases where a point system is used and thus will likely lead to confusion.

Finally, one of the problems we have had regarding veterans preference is enforcement or assistance in cases where a violation is alleged. The Attorney General advised that they may not represent a veteran in such cases; rather, they invite the veteran to take the case to district court (at the veteran's expense). The Kansas Commission on Veterans' Affairs has no attorney on staff, so legal assistance is outside the capability of the Agency. We will continue to do as we always have done: explain the policy or law to the veteran, and if appropriate, contact the alleged violator. But our role stops there. It appears that the last paragraph of the bill will leave that arrangement in place.



GEORGE S. WEBB

Executive Director

House Committee on Veterans, Military
and Homeland Security

3/14/07

Attachment 6

Vega

KANSAS

Applicant
Who is a Veteran that
meets Minimum
Requirements

Prior to 1995

Scenario: 20 qualified
candidates are tested,
scored, and ranked.

- Points were Given for Higher Ranking
- Score Determines Who is Interviewed

Of the 20 qualified candidates
10 are certified and
interviewed.

- Pick from Top 5 Interested
Candidates (Rule of Five)

Currently

Scenario: Of the 20 qualified
candidates all veterans are
interviewed.

Scott Sutton
Liberal, KS
#580-461-3871 Cell

03-08-2007

Candy Duff Fax: 785-296-0250
Topeka, KS

RE: Veterans Preference (House Bill No. 2562)

Dear Committee,

I would like for you to support this bill. I was in the United States Army and overseas for periods of time. I got hurt in the service and have some service connected disables. While in the service I was an automated Logistical Spec. I serviced my country the best that I could. I feel that all Veterans should be taken care of especially the Service connected Disabled individuals.

I have had some bad experiences when applying for city, county, and state jobs in Kansas. I applied for the city of Liberal Kansas for a Human Resource position. I told them that was a Disabled Veteran and was told that I would get a call. I never did and they hired someone else.

I applied for Seward County College in Liberal Kansas for a student service position. I turned in my application and filled out a Veterans Form that they provided, which is used by the federal government. About two weeks later I was sent a letter that stated they do not have to use Veterans preference because they are not considered a city, county or state institution. I still have not gotten an interview and probably will not. The next week I got another letter from the college, in which they sent back my DD-214 and my Veterans disability letter stating that they did not need it.

I since applied for Cimarron Community Basin Community Corrections. I had an interview, which went very well. They told me that I was really over qualified for the position. I called later to inquire on the job and was told that they hired someone with 20 years of experience and that they don't take Veterans Preference. This is an institution with funds from state and county. I went to apply with the county Human Resources and told them about this. Human Resources didn't know anything about me applying with Corrections agency. They stated that they are a county and state funded agency. Anyway, I didn't get the job and they apologized.

I am extremely qualified for all of these positions and was told that I was. I have an Associates of Science, 2 Bachelors Degrees, and a Masters. I was a Counselor for the Oklahoma Dept. of Corrections for several years. Then I decided to go to work for Kerr McGee Oil and Gas. The company sold out and now I'm looking for employment. The State of Oklahoma has a stiff Veterans Preference policy, which none of this issue would have occurred in Oklahoma. I ask that you take a real good look at this and make the right decision. Thanks for your time and trust that the right decision will be made.

Sincerely,



Theodore Scott Sutton, MHR

House Committee on Veterans, Military
and Homeland Security

3/14/07

Attachment 8



**Testimony in Opposition to House Bill 2562
By Chief Lee Doehring
Representing the City of Leavenworth and the
Kansas Association of Chiefs of Police**

As a Vietnam combat veteran I am very supportive of taking all reasonable measures to assist veterans returning from violent Theaters of conflict and assisting them in re-establishing their lives and careers. HB 2562, while well intended, is misguided and is fraught with many problems, both legal and practical.

As written, HB 2562 bestows post employment career enhancing benefits to veterans that are not given to other employees. This is unfair and unconstitutional. The United States Supreme Court struggled with the issue of disparate treatment and the constitutionality of veteran's preference in initial hiring. In a split decision they ultimately declared that it was constitutional for initial hire purposes. The Supreme Court has never addressed the disparate treatment between veterans and non-veterans in relation to post employment career preferences. If enacted, this Bill will generate numerous EEO complaints. As written, this Bill appears to violate the privilege and immunity clause and the due process clause of both the Kansas and the United States Constitutions. As an example, how does one justify giving a veteran a career preference over a handicapped non-veteran who, because of their handicap, was unable to serve but has been a long-term employee who has honed their skills and abilities but yet is denied that promotion or laid off because a lesser qualified, less experienced veteran has received an arbitrary legislated career preference. That is not a constitutionally defensible scenario. Aside from legal issues, practical employment issues associated with passage of this Bill will be astronomical. For one, the scope and applicability of this Bill is narrowly focused on counties, cities, and other local government. Does the state not employ veterans? And, if so, shouldn't this Bill be just as applicable to state employment and perhaps even to private employers?

I and other public administrators who will be tasked with implementation and administration of this Bill have numerous questions and concerns regarding terms and requirements of this Bill:

- 1. What is meant by benefit of employment? Salary? Insurance? Choice of work hours? And so on.**
- 2. What is meant by an absolute 10% preference? 10% of what?**
- 3. What is service under the flags of the United States and the United Nations? Is this Bill only applicable to veterans serving in an area of conflict or applicable if they served during a period of conflict?**

4. Will it be left to the courts through expensive litigation to define terms and address our concerns?

The war in Iraq will one day be over. However, if enacted, HB 2562 will continue to disparately affect the careers of public employees, either adversely or positively, depending on whether or not you were once a veteran. Post employment career decisions should be based upon demonstrated ability, skills, and knowledge without an arbitrary preference for one employee at another employee's expense. Consider the demoralizing effect this will have on our good public employees who either couldn't serve or chose not to serve in a branch of the military. Military service is no longer coerced; it is a personal choice of every active duty service member, reservist, or national guardsman.

I can understand the legislature wanting to support our returning veterans. From my own experience, I know the transition can be difficult. However House Bill 2562 is not a good way to support these honorable men and women returning from service to our country. Instead I suggest the Kansas legislature assist these returning veterans by addressing their physical and psychological needs for re-integration into society and family. Provide an opportunity for them to gain initial employment with employers and provide them a means to enhance their education and vocational skills so they excel in their career based upon their demonstrated performance. Do not penalize other good employees for the benefit of a few in the name of post-employment veteran's preference. This Bill is unfair, confusing, and impractical. As such, I request you not enact it.

Mr. Chairman
Distinguished Committee Members,

My name is Daniel Miller from Lansing, KS. I appear before you today to oppose House Bill 2562, a bill that seeks to modify the statute governing veteran's preference for employment within the state of Kansas.

I am a veteran. I retired from the Army in 1999 with 24 years of service; all of which were on active duty. I still serve the Army today as a Department of the Army Civilian on Ft Leavenworth. During my uniformed Army career I was twice deployed on combat operations. First to Panama for Operation Just Cause in 1989 and later to Saudi Arabia and Iraq for Desert Shield/Storm in 1990.

When applying for my current position in the Federal Civil Service I was eligible for and requested a 10-point veteran's preference; authorized because I have a service-connected disability. I have no idea whether or not it was granted or what role it may have played in my being hired. Subsequently, I was advanced in grade two times, promoted to the next higher grade, and advanced three more times within that higher grade. The fact that I am a veteran was not a factor in those advancements or the promotion; all of those were based strictly on merit, which is how it should be.

No self respecting veteran I know asks for more than to be given a chance - - to "get one's foot in the door" so to speak. That's where the veteran's preference for initial hiring is relevant. Once you get the position, all internal advancements should be based strictly on demonstrated performance in the job and your potential to do even more. I am strongly opposed to HB 2562's language that would expand veteran's preference beyond securing initial employment.

I would also caution the committee to examine closely the language within HB 2562; with regard to the conflicts it enumerates making one eligible for veteran's preference. It appears to me that if the verbiage is not changed a veteran of several combat operations may be ineligible for the preference; among them are operations in Grenada, Panama, Saudi Arabia and Kuwait (the first Gulf War) and Bosnia. I knew a Soldier who was medically discharged from the Army after 14 years of service, due to combat wounds he received during Operation Just Cause in Panama. He had previously fought during combat operations in Grenada. He participated in two combat parachute assaults and was awarded two bronze stars, a purple heart and the Combat Infantryman's Badge. Were he a Kansas resident, would you deny him the veteran's preference?

I am also concerned that HB 2562, if enacted, would have an adverse impact on persons within the work force who are not veterans. Because of the veteran's preference it is difficult enough for them to compete against a veteran when seeking initial employment. It is patently unfair for them to continue to compete for advancements and/or promotions, against a veteran who is garnering unfair advantage through the veteran's preference. Once again, internal advancements and promotions should be predicated on all otherwise eligible persons competing from a level playing field.

I am vehemently opposed to the language in HB 2562, allowing - - no actually encouraging persons who believe they have been discriminated against, with respect to award of the veteran's preference, to seek restitution through the courts for reasonable attorney's fees up to \$10,000. Our society already suffers from too much litigation - - there's no reason to encourage it.

Lastly, I find it most distasteful that anyone would propose HB 2562 under the cloak of patriotism or desire to help veterans. Make no mistake about it; the language in HB 2562 and the timing of its introduction are both tainted by the self-serving interests of the representative who introduced it. Let me make it clear here and now that representative does not speak for me or the 20-25 veterans I've spoken with regarding this proposed legislation; not one of which supports the current bill.

I implore you to do the right thing. Kill HB 2562 before it goes any further.

Thank you for allowing me to testify today.

A handwritten signature in cursive script that reads "D. Miller".

Daniel W. Miller
Lansing, KS



**TESTIMONY OF BRIAN GRITTMANN
CITY COMMISSIONER
CITY OF LEAVENWORTH, KANSAS
HOUSE VETERANS, MILITARY AND HOMELAND SECURITY COMMITTEE
HOUSE BILL NUMBER 2562
March 14, 2007**

Mr. Chairman, members of the Committee, on behalf of the City of Leavenworth, I am here before you to speak about House Bill 2562.

I have reviewed the bill and have serious concerns with the proposal. As a veteran, I believe that veterans should be entitled to a preference upon return to civilian life as an initial hire. Once hired, it is up to me, as a veteran and civilian employee, to prove myself for further advancement or promotion in any work environment. I do not believe that, after working years for an employer, I should be granted a promotion based upon service decades ago. Based on my discussions with other veterans, I have found that most of them are not asking for an unfair advantage. They want to be promoted based on merit and their performance.

The 10-percent preference is not defined in the bill. It is unclear the base number upon which the 10-percent is applied. If it is 10-percent of the total possible points, it will result in a very large preference and one that is very different from a 10-point preference. Not all promotion processes result in numerical scoring, which makes the application of a 10-percent preference even more confusing.

I served my country to support the principles of equal rights and fairness guaranteed under our Constitution. I swore to protect that Constitution. This bill is unfair to non-veterans, some of whom are not capable of serving in the military due to physical limitations. Depending on how the 10-percent preference is defined, it has the likely potential of eliminating promotional opportunities for non-veterans. Our best qualified individuals will choose to work elsewhere when they realize that they have limited promotional opportunities. This unfairness to hard working career civilian employees affects morale and the economic welfare of their families.

If this is a good proposal, why is it only being applied selectively? My reading of the bill suggests that the provisions do not apply to State agencies and departments. The statute that applies to State agencies is 75-2955. It is also not a requirement of private businesses.

I encourage you to amend the bill to make Veteran's Preference applicable only to initial hiring. At the very least, rework this bill to make it easier to interpret by the cities, equally applicable to State employees, and remove the reference to an undefined percentage advantage. You might also consider removing all reference to specific wars, time periods or conflicts. Simplify the bill by just saying, "*All honorably discharged veterans with over 180 days of service.*" Otherwise, with each conflict you will have to revise the statute. Keep it simple: "*All honorably discharged veterans.*" As the City of Leavenworth has learned, and many other cities of Kansas are about to learn, HB 2562 will be costly to enforce, and will result in significant litigation throughout the State.

Finally, a personal comment. As a 20-year retired Marine, I appreciate and am thankful for the initial hiring preference. It helps veterans find jobs upon return from war or conflict. But, I do not want each of my promotions over my career to be given to me over and over again by a Veteran's Preference. Not only will this create resentment by my fellow workers and subordinates, but it takes from my desire to be promoted based upon my personal job performance and abilities.

Thank you for your time. I will happily respond to questions.

**Testimony before the
House Veterans, Military and Homeland Security Committee
House Bill 2562 - An Act Relating to Veterans
March 14, 2007
1:30 p.m. - Room 214-N**

Chairperson Goico and Members of the Committee:

Thank you for the opportunity to appear before this Honorable Committee concerning House Bill 2562. I appreciate this opportunity to offer my opposition to this bill which will effectively end the Veterans' Preference in hiring in the State of Kansas.

Initially, I want to make it clear for the record that I appear in my private capacity and as a Kansas Veteran of both the Viet Nam War and the first Persian Gulf War as a United States Marine. I can say that I also represent the interests of my grandfather, who as a member of the Kansas National Guard's 35th Division, served in the trenches of France during the first World War and the Solomon Islands and Philippines during World War II; my father, a Kansas farm boy, who became a combat engineer in the Army and "raced to the Rhine" during World War II; an uncle that I never met who, at the age of 20, made the ultimate sacrifice in a town named Bastogne, as a member of the famed 101st Airborne; and my son, a Sergeant in the United States Marine Corps, who is cycling for his third tour of duty in the Persian Gulf.

It is my sincere hope that House Bill 2562 was not intentionally drafted to remove the Veterans' Preference in government employment in the State of Kansas, and that the proposed bill is the result of misunderstanding of this Act. I cannot imagine that this Committee, that this Legislature, would intentionally remove this benefit at a time when more and more Kansans are being called to active duty and are going into harm's way.

In my profession, I have had opportunity to study and review the Veterans' Preference law, its history, and our Highest Court's interpretation and application of this law. This Act was enacted in 1886. The "Great War" referenced in the case law interpreting this statute was our Nation's civil war¹. This preference has been with us that long. The purpose of the Act is stated in the original first sentence; "In grateful recognition of the services, sacrifices and sufferings of persons who served in the army, navy, air force or marine corps."² These honorably discharged veterans were granted an absolute privilege in appointments and employment in government service over non-veterans.

Originally, there was a requirement that the veteran would be appointed or hired if they were "equally qualified." However, even this requirement was removed. The "equal qualifications" requirement was omitted by the Legislature in the 1907 amendments. This was held not to be an inadvertent omission;

¹Veterans of the Confederacy were specifically excluded.

²Originally the bill only referred to the army and naval services.

Under the former act the applicant was required to possess qualifications equal to his competitors. Now it is sufficient if he is merely competent and able to perform the duties of the office . . . *State v. Addison*, 76 Kan. 699, 707, 92 Pac. 581 (1907).

Although there have been attempts to erode the Veterans' Preference in the state classified civil service to the granting of an interview, no one has seriously challenged the right to an absolute preference in appointments - that is, until House Bill 2562.

House Bill 2562 would remove the Veteran's Preference to appointments in state government. This elimination is subtly made by changing the language of the statute, striking reference to appointments. I do not have to point out to the members of this Committee that in government there is a distinct difference in appointments and employing. The rules of statutory construction require a finding that, by specifically striking the word "appointments" from the statute, the Legislature intended that the Veterans' Preference does not apply to appointments to government jobs.

Consequently, if House Bill 2562 is passed as drafted, Kansas veterans will no longer be preferred to appointments within our state, county or local governments. Those jobs which traditionally are positions of leadership will no longer be subject to the Veterans' Preference.

However, the devastation of this bill does not end here. The bill, while purporting to give veterans a preference in governmental employment, actually effectively wipes out the Veterans' Preference for those positions, also.

The bill as written states beginning at line 43 on page 1:

The effect of this section shall be the granting of an absolute 10% preference to veterans over the other applicants.

In the state civil service system - probably the largest governmental employer within the state - this is a hollow honor. The State of Kansas no longer uses a point system, having abandoned that system in 2004. In fact, the Department of Administration, since the discontinuance of the point system, has interpreted the Veterans' Preference of K.S.A. 73-201 as simply guaranteeing the veteran an interview for the position for which they apply.

Consequently, if House Bill 2562 is passed as drafted, Kansas veterans will no longer be preferred to employment within our state civil service system or any other governmental employment that does not use a point system.

Reducing the Veterans' Preference in Kansas from an absolute preference over non-veterans to guaranteeing an interview (interpreted as forcing the interview team to interview the veteran) is not

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a reduction in the Veterans' Preference; it is an effective elimination of this honored preference, a preference that has been earned through service to God and Country by blood and in too many cases the ultimate sacrifice of life.

Since 1886, the Kansas Legislatures have shown their "grateful recognition of the services, sacrifices and sufferings of our Kansas war veterans by giving them a preference in appointments and employment in our state, county and local governments. I challenge the members of this Committee

.....
Do you want to be the legislators who for the first time since 1886 will tell the veterans of Kansas that in grateful recognition of the services, sacrifices and sufferings of persons who served in the Army, Navy, Air Force or Marine Corps of the United States in World War I and World War II, and of persons who have served with the armed forces of the United States during the military, naval and air operations in Korea, Viet Nam, Iraq, Afghanistan, or other places, under the flags of the United States and the United Nations that you are removing the Veterans' Preference in employment with the State of Kansas or any other county or local government within the State?

This will be the message you are sending if you recommend passage of House Bill 2562 as drafted.

I am but one person - one voice. I am an old Gunnery Sergeant of the Marines who proudly served my God, Country and Corps during two wars and a couple of unofficial ones. I am proud of my son who returned to duty from a ten-day leave after boot camp on September 11th, 2001, who was there when his squadron delivered this Nation's first response in the War on Terrorism, and who has decided to make the Marine Corps his career when he could have easily come home honorably at the end of his enlistment. I cannot prevent passage of this bill, but I will not let it pass on my watch without making a record that this non-conspicuous bill which at first blush simply extends the Veterans' Preference to men and women alike, and to duty in Iraq and Afghanistan, is in truth the end of the Veterans' Preference in Kansas.

Thank you for your time and consideration, and I stand ready for any questions.

Respectfully submitted,

Glenn H. Griffeth
2135 S.W. Arvon Place
Topeka, Kansas 66614
(785) 273-6557
(785) 806-6551 (cell)

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cc: Members of the House Veterans, Military & Homeland Security Committee
Pat Culver, Department Commander, American Legion, Dept. Of Kansas
James Graham, State Commander, Veterans of Foreign Wars, Dept. Of Kansas
Harvey L. Harris, Commandant, Marine Corps League
Daughters of the American Revolution, Topeka Chapter