

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2263

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2263

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2263

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 05, 2001.

Tape Number	Side A	Side B	Meter #
2	x		17.2 to end
		x	0 to 12.9
(2/07/01) 3	x		14 to 16
Committee Clerk Signature <i>David R. Pruz</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2263 relating to the rights of organization and representation of state employees, collective bargaining negotiations between the state of ND and its employees, a state employment relations board, and public employment relations.

SENATOR CAROLYN NELSON, Distr. 21. Sponsor. Written testimony attached.

REP. ANDREW MARAGLIANO, Distr., 2 Cosponsor. Supports this bill.

REP. LONNY WINRICH, Distr., 18. Cosponsor. Supports this bill, urges do pass.

CHRIS RUNGE, Executive Director, ND Public Employees Assn. Written testimony attached including explanation of the bill section by section.

SENATOR D. MATHERN: We don't have a section 19.

C. RUNGE: I misnumbered.

SENATOR EVEKY: Who decides who the arbitrator will be?

C RUNGE: Both sides can choose from a list.

SENATOR ESPEGARD: What group of employees are we talking about?

C RUNGE: All state and higher education employees. Political subdivisions have their own bill on the house.

SENATOR TOLLEFSON: Arbitration is binding?

C RUNGE: Yes, since we are giving up the right to strike that the private sector has.

SENATOR ESPEGARD: Is this something employees have come up with or have you gone to them?

C RUNGE: Everyone that joins us knows our background is collective bargaining.

SENATOR ESPEGARD: You then represent about twenty percent of all the employees. Of about 11 thousand you have more or less three thousand?

C RUNGE: Yes.

SENATOR ESPEGARD: What do you mean when you speak of employees paid the same regardless of what office they work in?

C RUNGE: OMB takes a look at market rates by doing market tests. We would bargain wages and salaries. If there is an impasse: mediation, if after 15 days that doesn't work: mediation.

SENATOR ESPEGARD: If you get dues, why require state to pay this amount?

C RUNGE: State wants control over elections, bargaining units, etc. ... This is what we call death by fiscal note.

SEN. C NELSON: Regarding the fiscal note, its an over estimation. Compensation to board is based on too many hours. Alternate dispute resolution is a way to prevent going to the board and incur in legal expenses.

C RUNGE: Fiscal note is highly over inflated.

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DAVID KEMNITZ, NDAFL-CIO. Favor this bill.

SENATOR MUTCH: Do any states have collective bargaining?

DAVID KEMNITZ: Montana, Minnesota and South Dakota. South Dakota doesn't have binding arbitration.

SENATOR TOLLEFSON: Bill would allow expansion to other groups like teachers.

DAVID KEMNITZ: No, would apply only to state employees.

CHRISTOPHER DODSON, ND Catholic Conference. Favor this bill because it deals with social doctrines, all persons have a right to associate, organize and collectively bargain. It's a basic human right and to deny them this right is to commit an injustice.

SENATOR KREBSBACH: Does Catholic Church have collective bargaining for employees.

C DODSON : No but they are allowed to unionize. The employer can object to the union but cannot deny the employee the right to want to unionize.

KEN PURDY, OMB, Central Personnel. Does not think fiscal note is inflated. It is the same as the last biennium. These are estimates so they can be debated, figures were taken from the attorney general's rates.

SENATOR ESPEGARD: What would you bring to the employees?

C RUNGE: Choice in determining wages, leave , benefit levels, working conditions by negotiation with the employer.

SENATOR ESPEGARD: Wages are limited by the budget and they already have 100% insurance coverage.

C RUNGE: No objection to that, give the employees the option to choose to say no to us.

SENATOR ESPEGARD: According to the fiscal note the two salaried employees would be paid more than the insurance commissioner. Isn't that over inflated?

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Senate Industry, Business and Labor Committee

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SENATOR KLEIN: Some employees get paid more than the elected officials do.

DAVID KEMNITZ: Why would this bill help employees. Example: Blue coveralls for highway workers. This would be dangerous for employees, they can bargain about that and about how many more employees have to be there with you when doing something that might be dangerous.

Hearing concluded.

2/07/02 Committee reconvened. Senator Klein absent. Discussion held.

SENATOR ESPEGARD: Motion do not pass. SENATOR KREBSBACH: Second.

Roll call vote: 4 yes; 2 no; 1 absent Floor carrier SENATOR TOLLEFSON.

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/22/2001

Bill/Resolution No.: SB 2263

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>			\$749,467		\$786,940	
<b>Appropriations</b>						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Compensation for 3 board members	\$25,308
Transcription of Unfair Labor Pr. Issues	7,440
Legal Services	150,300
Office of St. Employee Rel. Board	367,360
Contract Hearing Officers	12,800
Operating Expenses	124,259
Equipment	25,000
Agency Costs (representation elections, negotiations, mediation and arbitration)	<u>37,000</u>
Total 2001-03	\$749,940

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

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

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

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

<b>Name:</b>	Ken Purdy	<b>Agency:</b>	OMB Central Personnel
<b>Phone Number:</b>	328-4739	<b>Date Prepared:</b>	01/26/2001



**REPORT OF STANDING COMMITTEE (410)**  
February 8, 2001 8:06 a.m.

**Module No: SR-23-2648**  
**Carrier: Tollefson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2263: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2263 was placed on the Eleventh order on the calendar.**

2001 TESTIMONY

SB 2263



# NORTH DAKOTA SENATE

Senator Carolyn Nelson  
District 21  
1125 College Street  
Fargo, ND 58102-3433

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360

COMMITTEES:  
Judiciary  
Government and Veterans  
Affairs

## SB 2263

Senate Bill 2263 is a bill that establishes state policy which identifies collective bargaining as the best avenue for promoting harmonious employee/employer relationships while assuring the public that the functions of government will be uninterrupted. Let me, at the offset, make it clear that in my non-legislative life, I am a state employee employed by the Board of Higher Education.

I introduced SB 2263 for the North Dakota Public Employees Association, AFT Local 4660 of which I am also a member. This bill provides collective bargaining rights for state employees. Further, it proposes a process by which collective bargaining can occur between the state of North Dakota and its employees. Finally, it establishes a 3-member state employment relations board, appointed by the Governor and confirmed by the Senate, to oversee bargaining matters between employee organizations and state employees.

SB 2263 will allow all parties to be equally represented in deciding employment matters of wages, hours, terms and conditions of employment. It is important to solve problems with input from both employers and employees. SB 2263 formalizes a process for joint problem solving which can lead to better solutions for all parties.

A staff member of NDPEA will explain the various sections of SB 2263. I urge you to consider her arguments and give a "do pass" recommendation to SB 2263.

Thank you.



NORTH DAKOTA  
PUBLIC EMPLOYEES ASSOCIATION

AMERICAN FEDERATION  
OF TEACHERS LOCAL 4660 AFL-CIO



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## TESTIMONY IN SUPPORT OF SB 2263

**Before the Senate Industry, Business and Labor Committee  
North Dakota Public Employees Association, American Federation of Teachers, #4660  
AFL-CIO  
February 5, 2001**

Chairman Mutch, members of the Senate Industry, Business and Labor Committee, my name is Chris Runge and I am the Executive Director of the North Dakota Public Employees Association, AFT Local #4660. NDPEA supports SB 2263, a bill which would bring collective bargaining rights to state employees, a right now enjoyed by all other workers in the state of North Dakota.

But first, let me tell you what this bill does not do. This bill does not permit strikes. This bill does not repeal the right to work provisions of state law and this bill does not force the Legislature to spend more money outside the money appropriated by the Legislature. This bill does not take away the power of the Legislature to manage the resources of government nor does it place employers and employees in an adversarial position.

The right to association in the workplace is a right afforded to all workers in North Dakota except public employees and in this case, state employees. In a time where the governor and legislators tout the private sector as an example to us as public employees, it is only fair that the right to association in the workplace be included. Collective bargaining, quite simply, is a democratic process of determining wages, hours of work, and working conditions with our employer. Collective bargaining will

*Quality Services from Quality People*

# Testimony

give public employees a real voice in the decisions that affect our jobs by allowing us to negotiate as equals with the state in determining our salary, benefits, and working conditions.

Collective bargaining for public employees is allowed in every state surrounding North Dakota and then some. Some of the most innovative and effective worker involvement programs in this country are in the organized workplace. If the state, as our employer, wants to empower employees, if you want employees to be involved in discussions on how to make government more efficient, more responsive and more customer driven, then it is necessary for you to allow the employees to vote for meaningful representation through the process outlined in SB 2263.

Today, the state employees are asking you to afford them the same workplace rights afforded to those in the private sector, federal employees and K-12 educators; the right to choose through free and open democratic elections whether to be represented by a labor organization in order to negotiate employment contracts. I challenge you to open government up to workers and apply the law of the land to state employees.

NDPEA supports SB 2263 and urges a DO PASS. You will find attached a section by section explanation of the bill and I would be more than willing to go through each and every section of the bill if the committee would like. Thank you for the opportunity to testify in support of collective bargaining rights for state employees and I am available to answer any questions you may have.

## SB 2263 BILL EXPLANATION

**Section 1** is the definitions section of the bill. Enclosed in this section are the definitions of those terms used throughout the legislation. It is in this section that an employee is defined.

**Section 2** addresses an employee rights. This section specifically protects employees in their decision to either join or not join an employee organization.

Additionally, this section identifies as the exclusive representative that organization which has been recognized as the representative of the majority of employees.

Finally, this section provides that the exclusive representative shall bargain for all employees in the unit with respect to wages, hours and other conditions of employment even if those employees don't hold membership in the employee organization.

**Section 3** addresses the duty to bargain. It is under this section, that the employer and the exclusive representative are required to meet and negotiate, in good faith, with respect to wages, hours, terms and other conditions of employment.

**Section 4** is the management rights section. Under the provisions of this bill, management is protected from having to bargain over certain matters of inherent management policy. This section identifies those matters that the employer shall not be required to bargain including: overall budget levels, the direction of employees and the selection of new employees.

**Section 5** Establishes the state employment relations board.

**Section 6** relates to the duties of the state employment relations board. The state employment relations board shall be responsible for carrying out the provisions of this Act. Some of the duties include: determining appropriate bargaining units, conducting representation elections, develop rules and regulations as necessary to carry out the board's functions and hold hearings and issue orders to enforce the board's rules.

**Section 7** relates to elections and possible recognition of an exclusive representative. This section provides for a democratic process of elections to determine if employees want an employee organization to represent them for the purposes of collective bargaining. Employees are guaranteed the option of "no representation" on the secret ballot election.

Section 7 also outlines the procedure necessary to remove an employee organization as the exclusive representative of the employees. The removal of an exclusive representative is conducted through the same democratic secret ballot election process used to certify an agent.

**Section 8** relates to unit determination for purposes of collective bargaining. This section sets into place guidelines to assist the state employment relations board in determining appropriate bargaining units. The board, in their decision, is to take into account such things as: community of interest; administrative structure; the negative effect of over fragmentation; and wages, hours and other working conditions of the various employees.

**Section 9** requires a grievance resolution process be part of the negotiated agreement to address disputes that may arise regarding the administration or interpretation of the agreement.

**Section 10** identifies those activities which are unfair labor practices for both the employer and employee organization. It is this section that specifically prohibits strikes, work stoppages or slowdowns.

**Section 11** sets into place the procedures to be followed by the state employment relations board in investigating and dealing with charges of unfair labor practices.

**Section 12** outlines the various time frames involved in negotiating an employment contract. If the Legislature is in session when the contract is ratified by the employees and negotiators, the Legislature will vote to either approve or reject the request for funds needed to implement the contract. If the Legislature is not in session, the request for funds will be submitted to a committee designated by the Legislative Council and that committee shall either approve or reject the request for funds necessary to implement the contract.

If the Legislature or Committee designated by the Legislative Council rejects the monetary funding requirements, the parties may reopen the contract and continue negotiations.

**Section 13** relates to a mediation process. If after approximately four months of negotiating, an agreement is not reached, the parties involved may request or the state employment relations board may appoint a mediator to assist the parties in reaching an agreement.

**Section 14** relates to the arbitration process. If after fifteen days of mediation, an agreement is not reached, either party may request the assistance of an arbitrator. The arbitrator, after holding a hearing, shall issue an order and that order shall be binding on both the employer and the exclusive representative.

**However, the Legislature, if it is in Session, or a committee designated by the Legislative Council, shall have final authority over the funds necessary to implement an agreement.** If the Legislature determines, that there are insufficient funds to implement the arbitrators award, the matter is returned to the parties for further bargaining.

**Section 15** simply says that if the Legislature has not rejected the arbitrators award, then the contract is implemented and the state shall fund the contract.

**Section 16** states that this Act and collectively bargained agreements shall take precedence.

**Section 17** makes it very clear that strikes, work stoppages and slowdowns are prohibited at all times.

**Section 18** protects employees from having to work in unsafe work environments and allows individual employees to make decisions regarding continued employment with the state.

**Section 19** allows the employers and exclusive representative to negotiate multi-year agreements.