

**1999 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2191**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2191

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date January 22, 1999

Tape Number	Side A	Side B	Meter #
1	X		2994-END
1		X	0-799
2/4	2	X	4,890
Committee Clerk Signature <i>James A. Rife</i>			

Minutes: CHAIRMAN KREBSBACH reconvened the committee and opened the hearing on SB 2191 which is a bill relating to the provision of rights of organization and representation of state employees, collective bargaining negotiations between the state of North Dakota and its employees, establishment of a state employee relations board, and public employment relations. Appearing before the committee to introduce the legislation was SENATOR CAROLYN NELSON, District 21, primary sponsor of the bill. A copy of Senator Nelson's written testimony is attached. SENATOR DAVE O'CONNELL, District 6, also appeared before the committee offering his support for SB 2191. GISELE BARTH-North Dakota Public Employees Association, AFT Local 4660 AFL-CIO appeared before the committee to explain the various sections of the bill to the committee. A written copy of her testimony is attached. Questions were offered from SENATORS STENEHJEM and THANE. Additional questions were offered by SENATORS KREBSBACH, THANE, DEMERS, and STENEHJEM. There were no further

questions for Ms. Barth. NANCY SAND-representing the NDEA appeared before the committee to offer their support for SB 2191. She indicated that the teachers association has used collective bargaining for some time now. The process does not guarantee results but allows teachers to bargain the budget. The process of negotiations allows teachers to bargain forever. There is no date set in law to stop bargaining. The process is not binding, it allows parties to choose to accept recommendations even before bargaining begins. This process allows for arbitration if an acceptable agreement can not be reached. No strikes are allowed, and multi-year agreements are possible. There were questions offered of Ms. Sand. DAVE KEMNITZ, president of NDAFL-CIO appeared before the committee to testify in support of SB 2191. KEVIN KICONAS representing ND AFSCME (American Federation State, County, and Municipal Employees), appeared before the committee offering his organizations support for SB 2191. A copy of his written testimony is attached. There were no questions from committee members. No one appeared in neutral position or in opposition to SB 2191. DAN LEROY explained the Fiscal Note attached to this bill to the committee. There was nothing further at this time. CHAIRMAN KREBSBACH closed the hearing on SB 2191.

FEBRUARY 4, 1999

Discussion was held.

Senator Wardner made the motion for a Do Not Pass.

Senator Thane seconded.

ROLL CALL: 4 Yes, 2 No, 1 Absent

CARRIER: Senator Krebsbach

**FISCAL NOTE**

(Return original and 10 copies)

Bill/Resolution No.: SB 2191 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 1-7-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:**

SB 2191 establishes a State Employee Relations Board to provide collective bargaining for state employees.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures:      ---              ---              \$749,467              ---              \$786,940              ---

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: ---
- b. For the 1999-2001 biennium: ---
- c. For the 2001-03 biennium: ---

4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

None

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name Dan LeRoy

Department Central Personnel Division

Phone Number 328-4735

Prepared: 1/12/99

Fiscal Note SB 2191

STATE EMPLOYEES RELATIONS BOARD

1. Compensation for 3 board members. \$25,308

Members are entitled to receive per diem payments equal to that paid to members of the Legislative Assembly (\$111/day). Assumes the Board meets for one week in each of the first two months of the biennium, and then for 3 days a month in the remaining 22 months of the biennium. (\$333/day x 76 days)

Transcription for Unfair Labor Practice Issues  
(2 hrs./month @ \$155/hr.) \$7,440

Legal Services  
\$36.13/hr x 2080 x 2 \$150,300

Office of State Employee Relations Board \$367,360

	<u>Salary</u>	<u>Benefits</u> <small>(28% actual sal.)</small>	<u>Total</u>
1 Director	\$55,000	\$15,400	\$70,400
2 Labor Relation Specialist/ Asst. Director	45,000	12,600	57,600
1 Admin. Asst.	22,700	6,356	29,056
1 Admin. Sec.	20,800	5,824	26,624

Contract Hearing Officers (temporary ALJ)  
80 hours per year @ \$80/hr./yr. \$12,800

Operating Expenses \$124,259  
1/3 of base salaries

Equipment \$25,000

Agency Costs \$37,000

- 15 representation elections (15x\$200) \$3,000
- Negotiations (negotiation @ \$25/hr., 15 contracts, 10 meetings/contract, 8 hrs./mtg. \$30,000
- Mediation & arbitration (20 days @ \$200 per day) \$4,000

Estimated cost for 99-01 biennium \$749,467

Estimated cost for 01-03 biennium \$786,940  
(99-01 + 5%)

Date: 2/4/99  
Roll Call Vote #:

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2191

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken Do Not Pass

Motion Made By Sen. Wardner Seconded By Sen. Thane

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM					
SENATOR THANE	✓				
SENATOR DEMERS		✓			
SENATOR MUTZENBERGER		✓			

Total (Yes) 4 No 2

Absent 1

Floor Assignment Sen. Krebsbach

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

REPORT OF STANDING COMMITTEE (410)  
February 8, 1999 9:00 a.m.

Module No: SR-25-2128  
Carrier: Krebsbach  
Insert LC: . Title: .

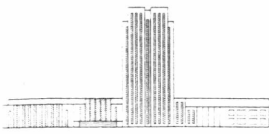
**REPORT OF STANDING COMMITTEE**

**SB 2191: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)**  
recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).  
SB 2191 was placed on the Eleventh order on the calendar.

**1999 TESTIMONY**

**SB 2191**





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

# NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



COMMITTEES:  
Judiciary  
Political Subdivisions

## **SB 2191**

Madam Chair, I'm glad to be back in the Missouri River Room with this committee.

Senate Bill 2191 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 2191 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 defines the process by which collective bargaining will 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 2191 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 2191 formalizes a process for joint problem solving which can lead to better solutions for all parties.

Ms. Barth, of NDPEA, will explain the various sections of SB 2191. I urge you to consider her arguments and give a "do pass" recommendation to SB 2191. Thank you.



NORTH DAKOTA  
PUBLIC EMPLOYEES ASSOCIATION

AMERICAN FEDERATION  
OF TEACHERS LOCAL 4660 AFL-CIO



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## **NDPEA Testimony in Support of SB 2191**

**Before the Senate Government and Veteran Affairs Committee  
North Dakota Public Employees Association, AFT Local 4660 AFL-CIO  
January 22, 1999**

Madame Chairman and members of the Committee, my name is Gisele Barth and I represent the North Dakota Public Employees Association, AFT Local 4660. I am the project coordinator for western North Dakota. NDPEA supports SB 2191, 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.

Let me tell what this bill does not do. This bill does not permit strikes. The bill does not repeal the right to work provisions of state law. The 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. 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 as it is in the private sector. In simple terms collective bargaining, is a democratic process of determining wages, hours of work and working conditions with the employer.

*Quality Services from Quality People*

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# Testimony

Collective bargaining will give 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.

Minnesota, South Dakota and Montana along with 27 other states allow collective bargaining for public employees. Some of the most innovative and effective worker involvement programs in this country are in the organized workplace. If the state, as an 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 meaningful representation through the process outlined in SB 2191.

I will now go through each section of the bill. (See Attachment)

Today, the employees of this state are asking you to allow the same workplace rights afforded to those in the private sector, federal employees and K-12; the right to choose through free and open democratic elections, whether to be represented by a labor organization in order to negotiate employment contracts. NDPEA urges a **DO PASS on SB 2191**.

Thank you for your time and consideration and I am available to answer any questions you may have.



NORTH DAKOTA  
PUBLIC EMPLOYEES ASSOCIATION

AMERICAN FEDERATION  
OF TEACHERS LOCAL 4660 AFL-CIO



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## SB 2191 BREAKDOWN BY SECTION

**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 a state employee is defined. Under the provisions of this bill, all state employees including classified and faculty working at our institutions of higher education would be covered.

**Section 2** addresses state 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, which the employer shall not be required to bargain, including: overall budget levels, the direction of employees and the selection of new employees.

**Section 5** 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.

### *Quality Services from Quality People*

#### ANCH OFFICES

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Fargo: NDPEA, AFT  
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701/232-8307  
1-800-422-0236

Grand Forks: NDPEA, AFT  
311 4th ST S, Suite 202  
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701/775-2061  
1-800-422-0075

**Section 6** 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 6 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 7** 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 8** 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 9** 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 10** 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 11** 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 state 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 12** 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 13** 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 arbitrator's award, the matter is returned to the parties for further bargaining.

**Section 14** simply says that if the Legislature has not rejected the arbitrator's award, then the contract is implemented and the state shall fund the contract.

**Section 15** states that this Act and collectively bargained agreements shall take precedence.

**Section 16** makes it very clear that strikes, work stoppages and slowdowns are prohibited at all times.

**Section 17** protects employees from having to work in unsafe work environments and allows individual employees to make decisions regarding continued employment with the state.

**Section 18** allows the employers and exclusive representative to negotiate multi-year agreements.



# NORTH DAKOTA **AFSCME**

UNION FOR PUBLIC EMPLOYEES

Post Office Box 2423, Bismarck, North Dakota 58502

Telephone: (701) 223-5979

## TESTIMONY BY KEVIN KICONAS ON SB 2191 State Employee Collective Bargaining

Chairman, Senator K. Krebsbach, Government and Veterans Affairs  
Committee Members:

I represent ND AFSCME (American Federation State, County and  
Municipal Employees. I am here to support SB 2191.

I am not going to go through all of the points of the bill with  
you. Others will do that, but I want to focus for a minute on why  
this is needed. First, as it now stands, state employees are  
treated as second class citizens. They have no concrete input  
into the rules governing them. Each agency and department in  
the state government has its own set of rules and policies. In  
addition, within each agency and department, they have their n  
set of rules and regulations. Further more, any of them can be  
changed with little notice and no real input from the workers  
themselves.

Every day state employees are put in the most dangerous and  
risky jobs that state government has. Because of under staffing  
and under funding, their stress levels are high and they are over  
worked. This happens whether they are clerical, D.O.T. workers,  
a human service worker or any one of the other jobs in state  
government. Every day in a thousand ways, they are told that  
they don't count. Yet, in spite of all of the danger, risk and  
stress, they continue to do an excellent job of protecting and  
serving the citizens of our great state.

Fear in the work place is one of the biggest issues the state  
employees face every day. They are afraid to stand up because  
they are afraid of being fired, of being demoted and afraid of  
being put down. Supervisors can be very intimidating. State  
employees don't see any protection in the current state system.  
They feel alone.

SB 2191 calls for strong independent grievance, mediation and  
arbitration procedures. It gives state employees the real pro-  
tection they need. This bill gives them real input into the  
decisions and policies in the work place.

Passage of SB 2191 would make their working conditions much  
better. It would bring clarity and reduce stress. This bill  
would improve morale considerably.

The passage of this bill also would bring sanity to wage increases in that they would be worked out for the biennium, and they would include workers as part of the decision making process from the start.

Collective Bargaining is a time honored right that private sector workers have enjoyed for over 50 years. I urge you, as we move into the 21st century to seize this opportunity. We have to restore justice, dignity and respect to state employees. I ask you to support SB 2191.

Chairman, and Committee Members, thank you for your attention and I will be glad to answer any questions.