

FISCAL NOTE
Requested by Legislative Council
01/20/2015

Revised
 Bill/Resolution No.: SB 2268

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill would provide a penalty for state employees participating in interstate organizations that require or may require expenditure of public funds. The fiscal impact cannot be determined.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Pam Sharp

Agency: OMB

Telephone: 328-4606

Date Prepared: 01/21/2015

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2268

2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee

Missouri River Room, State Capitol

SB 2268
2/5/2015
Job # 23327

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to authority of state employees to participate in interstate organizations without legislative authority; and to provide a penalty.

Minutes:

Attachments 1 - 7

Chairman Dever: Opened the hearing on SB 2268.

Senator Bowman, District 39: Testified as sponsor and in support of the bill. I introduced this bill for one reason. That is to allow our process to prevail against any department employee or elected official making any decisions that we as a legislative body should make. I understand that the bill is not written quite right. (Read from the bill and gives an example of an issue) As a policy branch of government, we have the authority to give them that permission. If we put this into law, for the next generations of legislators will understand that we are the policy branch of government and we will write the laws or we will give authority to any group that we think needs that authority prior to them acting on our behalf.

(4:10) Chairman Dever: I see the penalty depending on the amount of money is an A, B, or C felony, an A or a B misdemeanor, and an A felony if the property misapplied exceeds \$50,000.

Senator Bowman: It is basically saying to not be doing something you should not do. I have served on lots of boards and the decision making should be where it belongs. All policy decisions should be made by us.

Senator Davison: You have been in the legislature for a number of years. Is there another example outside of the one that you gave?

Senator Bowman: None of this magnitude. This is a huge change in policy for North Dakota and for the education system. I don't remember anyone giving the authority to do this until after it was done and when you read what that language said, this all had to be done prior to bringing that to the state. Legislation should be where it is open to everyone.

One exception to that is when the people of the state of North Dakota want to write a law. They can do it through the vote process.

Senator Nelson: I am confused here. I am thinking about the Attorney General and all of the things that he is a part of. Isn't that implicit in his job description?

Senator Bowman: I had a discussion with him on this. If it is written in policy or if it is written in statute what his legal authority is, then he has every right to do that. We are talking about someone going to a meeting someplace and getting us involved in something that we have not had any input in or given them any authority to do. Your Governor goes to all kinds of meetings all over the United States and the world. The Secretary of State does as well. When they do that, they have to follow the laws of the state of North Dakota.

Senator Nelson: We go NCSL and CSG and part of being paid is going to the business meeting and at the business meetings we vote on resolutions and projects. Sometimes we are kind of implicit in going to those that we become part of that and we have expenses. If we participate in what we vote for there are expenses down the road. I am trying to get my arms around what this really says.

Senator Bowman: I thought I was pretty clear. If you are going to go to a meeting, before you make a policy change for the state of North Dakota, you better make sure you have the legal authority from the governing body that sets policies and that is the legislative body.

Vice Chairman Poolman: Is John Hoven a felon then according to this?

Senator Bowman: I am not an attorney here and I am not pressing any charges. What I am bringing out is that there is a reason because it is very clear that all of this was done before it was brought to us. Did he go to the Attorney General, I don't know.

Vice Chairman Poolman: But if this law were in place, you are saying that they should be felons?

Senator Bowman: No, I am not saying that. What I am saying today is that if this was in place, they should have come to us before they did it so we would have known what was going on. That should have been explained to somebody a long time ago. Sometimes these things happen and we have to try to figure out a way to try to correct them. I do not think it is bringing hurt on anyone other than someone who might want to do something they were not authorized to do.

Senator Cook: I have been trying to think of just how far the consequences might be here also. I thought of NCSL. I would say that there is a line item budget for NCSL in our legislative council budget. I would guess we are given authority there. My question is in regards to requiring expenditure; does that include expenses to go to a meeting?

Senator Bowman: I have not thought about that.

Senator Cook: Is that your intent to not even have the expenses to go to a meeting?

Senator Bowman: If it something that has already been going on there is probably already appropriation for those expenses already. But when there isn't, and you do something that requires an expenditure, then you have stepped over the bounds.

Senator Cook: I am thinking about the highway compact. DOT goes to that and there is no legislative oversight whatsoever in that. It stopped us from being able to do something that we had legislation that we wanted to do earlier this session. I think of the multi-state tax commission. The tax commissioner could be an issue. I am thinking about how far reaching the consequences of this might be. Are you looking at the common core compact?

Senator Bowman: That is where this legislation is coming from. I don't think anyone knew too much about that. I think it is a perfect example. I am not accusing anyone of doing anything wrong. I am just accusing someone that might not have followed the rules. Once you enter into an agreement on anything without us giving the authorization to do it, then you are not doing what you should be.

Chairman Dever: Are you aware that the majority of the people in the room might not be here in favor of the bill?

Senator Bowman: That's fine. I learned a long time ago that we have to bring ideas forward and they have to be thought about. And this is an idea that we seriously have to think about as time goes on. Are we going to let government overpower the people or are we going to still be the power of the people?

Chairman Dever: I think most of the people are here because they are concerned about the interpretation of the bill.

(16:10) Pam Sharp, OMB: Testified in opposition to the bill. I am looking at the bill with the perspective of agencies. (Reads lines 8 to 11 of the bill) There are not direct appropriations for certain things and just paying dues and traveling does create an expenditure and I do not think the legislature could authorize every individual association. These associations have been very valuable. Sometimes it is the only source of professional development that agencies get is through their associations. I would ask you to look carefully at the language so that it does not have any unintended consequences.

(17:25)Chairman Dever: Would you feel more comfortable if rather than talking about attending a meeting, it talked about the decisions or the commitments that came out of the meeting?

Pam Sharp: I think that is Senator Bowman's goal. To get at who can commit the state to a policy. I think the way it is written, it limits participation in associations.

Chairman Dever: I would imagine that attending the meeting is part of the budget and the expenses that they are expending.

Pam Sharp: Exactly it is just in a large account code.

(18:50) Tracy Stein, Director of Human Resources, Department of Corrections and Rehabilitation: See Attachment #1 for testimony in opposition to the bill.

(22:42) Chairman Dever: Most of what I hear you saying is talking about attending conferences and sharing information. I am curious though, if in that process, do you enter into compacts with other states that may affect North Dakota laws and require the expenditure of funds?

Tracy Stein: Yes it does, especially on the inter-state compact for offenders and juvenile youth.

Chairman Dever: We belong to a lot of different compacts but in my awareness I think we kind of vote on those. I am curious how the decisions that you make as a result of those conferences commit the state of North Dakota to the expenditure of funds?

Tracy Stein: I am not part of the inter-state compact, but others might be able to answer that. Under federal guidelines we have to participate in it. Are there expenditures with that? I am sure that there is in the fact that we are participating. But a lot of those inter-state compacts, I think the funds are paid for by that compact yet we have fees and so forth to belong to that compact.

(24:55) Dr. Aimee Copas, North Dakota Council of Educational Leaders: See Attachment #2 for testimony in opposition to the bill.

(29:05)Chairman Dever: Regarding common core, and I don't want to debate it this afternoon, but I am bothered though that 4.5 years after its adoption we are looking at each other and asking what it is. I don't think that there was that public discussion leading into it. It is a major change in policy for North Dakota.

Aimee Copas: The standards based education that we have been providing to our students has been in place for decades. Our standards that we had in place prior to what everyone is calling common core were 84% aligned to where we are right now. The ones that we have right now are a bit more rigorous. The ones, that when paired up between the two were not tough enough for our kids, we raised the bar. Kids don't know what they are not supposed to know. So if we raise the bar on them, by in large most of them raise to meet the bar. A separate conversation could be made about the assessments, but standards based education is a smart thing and it is really good for kids. The North Dakota state standards went through its regular review process just like we have always done for review process. Every time there was opportunity for public comment, interestingly enough others from outside of North Dakota came in and created a firestorm of fear and mistruths. Most parents were happy with the education. The Governor said it right in his address. We are #1 in the nation for people satisfied with K12 education. And we had been well involved in our new set of standards at that point. These same standards in our review cycle are up for review again in another year or two so participate in the process.

Chairman Dever: I agree with everything you are saying except that the process should be before the people and not just adopted.

Aimee Copas: Do you know what is really cool about this bill, is that it was open for public comment and I bet then next time around we will get more public involvement. We will have more people come to the poles and it is a good thing for North Dakota.

Chairman Dever: Most people, if you ask them about common core, don't know what it is. One of the reasons that they don't take the time to know is that they trust us, their elected people and you their educational leaders to look out for their interests.

Aimee Copas: You are right. When you talk to the superintendent up in New Town and they have one of toughest group of kids to try and perform. We have been trying to figure out how to help our Native American kids do a better job in our schools for decades and they are showing 30% improvement in AYP scores since implementing. Something is right about that. Those same results are seen elsewhere. Increases in kids going into AP classes. Our teachers are telling us this is really good, in fact better than what we have ever seen before.

(33:05) Darcy Rosendahl, Deputy Director, North Dakota Department of Transportation: See Attachment #3 for testimony in opposition to the bill.

(34:55) Senator Cook: There is a compact out there that affects driver's license for every citizen of North Dakota correct?

Darcy Rosendahl: I believe there is. We are a member of a number of compacts.

Senator Cook: I would like to know what legislative oversight there is over what is in the compact and how it affects citizens of North Dakota.

Darcy Rosendahl: I will get that for you.

(35:48) Tom Bodine, Deputy Agriculture Commissioner, North Dakota Department of Agriculture: See Attachment #4 for testimony in opposition to the bill.

(37:45) Carrie Larson, Plant Industries Director, North Dakota Department of Agriculture: See Attachment #5 for testimony in opposition to the bill.

(40:30) Senator Davison: You went to this and we entered into a plan with other states. So, I don't think the bill is trying to keep you from going and having those conversations, but my question would be to you, did you sign agreement amongst those states and is there a pay to play plan within those groups of states that you are talking about in relationship to those particular standards and the things you have discussed in this testimony.

Carrie Larson: You are correct in saying that we attended these meetings but, no, there was nothing signed that changes our century code or law.

Senator Davison: So your interpretation of why you are against this is that you believe that this would not allow you to spend public funds to go to this conference to participate in those discussions?

Carrie Larson: That is correct. I echo Pam Sharp's comments about the way that it is written and our interpretation of it.

Senator Flakoll: If there is an outbreak of some disease, and you bundle up with other states to deal with the problem, would this allow you to do that or would it hamper you from doing some of that? Often times those have to be dealt with on the fly.

Carrie Larson: I think anything that happens at the Ag Department would still have to go through law making in order to accomplish those. Our concern was how the bill is written.

Chairman Dever: You bring a little different perspective. When we think about law, we think about the Century Code and that is what we do, we think about the administrative code, which the agencies adopt rules in compliance with the laws, but agencies also have policy. Generally, those policies are not intended to expand the law. But sometimes when you are talking about interstate movement of agriculture you may have to have policies that address that; that don't require a law.

Carrie Larson: You are correct in that statement. That does happen.

(44:40) Patrick Fridgen, Director, Planning and Education Division at the North Dakota State Water Commission: See Attachment #6 for testimony in opposition to the bill.

(45:55) Chairman Dever: If the bill was amended as we have discussed, your concerns would be alleviated?

Patrick Fridgen: I will reserve comment depending on how it is written.

(46:30) Cheri Giesen, Job Service of North Dakota: See Attachment #7 for testimony in opposition to the bill.

(49:07) Chairman Dever: When you entered into that agreement regarding credit cards, did that require legislative approval and was there a cost associated with it?

Cheri Giesen: No, and there is not a cost to signing the consortium with the other states saying that we participate, but I do not believe we pay any funds to have that debit services. I can get back to you on that.

Chairman Dever: Closed the hearing on SB 2268.

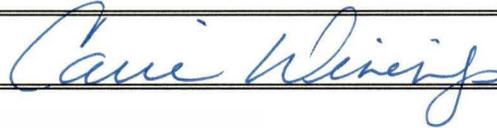
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2268
2/6/2015
Job # 23404

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Attachments 1

Chairman Dever: Opened SB 2268 for committee discussion. See Attachment #1 for additional information given to the committee.

Committee Discussion: The committee discussed the information from DOT and the history of the legislation and the history of the Driver's License Compact as well as the Streamline Sales Tax agreement. It was stated that the bill would not affect streamline sales tax. Some in the committee did not feel the testimony was relevant to what the bill was trying to do.

(4:25) Senator Poolman: Moved a Do Not Pass.

Senator Nelson: Seconded.

Committee Discussion: The committee discussed the overall feeling that the bill was poorly written and whether or not there could be amendments to the bill that would improve the bill, as well as whether or not it would have prevented Common Core from being implemented in the end; which appears to be the purpose of the bill. The committee talked about whether or not agreements should ever be made without legislative approval. It was stated that they can go to meetings/conferences and sign on to resolutions, for instance, that do not commit the state to anything, but if it is a compact then it should go through the chain of command. Concerns about whether or not the bill would be over-reaching and micro-managing were stated. It was mentioned that it would affect the political subdivisions and the schools greatly, and money that has to be spent goes through appropriations.

A Roll Call Vote Was Taken: 4 yeas, 2 nays, 1 absent.

Motion carried.

Senator Poolman will carry the bill.

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2268**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Poolman Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Chairman Dever		✓	Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook		✓			
Senator Davison	✓				
Senator Flakoll	AD				

Total (Yes) 4 No 2

Absent 1

Floor Assignment Poolman

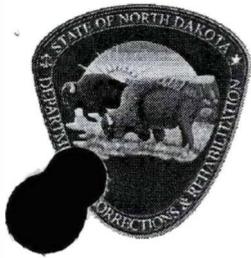
If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2268: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
SB 2268 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

SB 2268



NORTH DAKOTA
Department of Corrections
& Rehabilitation

2/5

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Jack Dalrymple, Governor
Leann K. Bertsch, Director

Senate Government and Veteran Affairs Committee
Senator Dick Dever Chairman
Senate Bill 2268

Mr. Chairman and members of the Senate Government and Veteran Affairs Committee, my name is Tracy Stein, Director of Human Resources for the Department of Corrections and Rehabilitation (DOCR). I am here today representing the Department in opposition of Senate Bill 2268.

Senate Bill 2268 prohibits state employees from participating in any interstate association, compact, consortium, or similar organization if participation requires or may require an expenditure of public funds or a change in the laws of the state, without legislative authorization. The bill does not indicate what legislative authorization means or the process to secure such authorization. If there is a statute that requires the Department to participate in a Compact, is that legislative authorization? Membership in both the Interstate Compact for Adult Offender Supervision (ICAOS) and the Interstate Commission for Juveniles are required as both compacts have the force and effect of federal law and provide the legal mechanism for transferring and tracking adult and juvenile offenders between the state. The DOCR is the Commissioner, so dues are paid through the general fund. The state is subject to disciplinary action and fines if we do not budget for and pay our dues. Memberships in the compacts allow for enforcement of the compacts against member states for noncompliance by imposing fines and fees, remedial training and technical assistance and legal enforcement. All

fifty states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands are members of the these interstate compact agreements.

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In addition to the mandated participation in the interstate compacts, membership in professional organizations is critical to our agency for many reasons. Issues impacting Corrections usually make themselves known in the larger systems from the east and west coasts where the populations of inmates are higher and there is more involvement from stakeholder and advocacy groups. News articles and literature does not always provide clear, complete and accurate information on the issues. Peer to peer trust that is developed through professional memberships allows for better discussion between correctional professionals essential to our development of staff and assists us to be proactive in managing issues. Some additional examples of national organizations or associations other than the adult and juvenile compacts include:

1. Performance Based Standards (PbS): This continuous quality improvement process helps the North Dakota Youth Correctional Center (ND YCC) gather, analyze and build improvement plans PbS chooses data elements based on current national and international research around best practices and the evidence base. From a mission and purpose perspective, PbS assures that North Dakota youth receive the best care possible, using programs and practices that are most likely to produce good outcomes. From a fiscal perspective, PbS assures the funders that public dollars are being spent responsibly. From the executive branch agency perspective, PbS protects the state's interests by ensuring that YCC policies, programs and practices are of a sufficient quality to assist in a litigation situation . North Dakota could not develop and implement a program with such sweeping impact by itself. General fund dollars used to annually purchase PbS are returned in benefits many times over.
2. Council of Juvenile Correctional Administrators (CJCA): Keeps ND youth corrections director abreast of national trends, best practices, and current federal

strategies. CJCA members engage regularly with national foundations and federal initiatives. Through CJCA, in 204 ND leveraged \$25,000 in technical assistance and training that brought mental health in juvenile justice training to ND at no cost to the state, but with a state wide impact on youth mental health.

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3. National Association of Crime Victim Compensation Boards (NACVCB) and National Association of VOCA Assistance Administrators (NAVAA): Both of these associations provide on-going consultation, networking and training specifically designed for VOCA and Compensation Administrators, assisting with maintain vital networks to share the latest ideas and strategies for successful operation for the Victim Compensation Program and VOCA Assistance Program. Special conditions for victim assistance award and victim compensation award require one primary staff from each state to attend the annual trainings for NACVCB and NAVAA .
4. Associations for the Treatment of Sexual Abusers; Mental Health Network for State and Federal Correctional Mental Health Administrators; International Association for Correctional and Forensic Psychology: These memberships provide access to e-mail lists for information sharing and discussion, networking, and conferences where cutting edge research is disseminated. Our Clinical Director has often used ideas gained from participation in such organizations to advance the practices of the DOCR. They provide avenues for us to share our experiences and success with others as well. Membership in national and international organizations plays a key role for psychologist in remaining apprised of research and best practices in correctional mental health. This is especially true in North Dakota where we have a small corrections department and a limited number of practitioners and academics in the area of correctional and forensic issues.
5. West Central Wardens and Superintendent's Association; American Correctional Association: These organizations have helped develop our new wardens and

provide access to important resources including training, research, data, and offers national accreditation that is essential for staying ahead of rapidly changing issues.

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These are just a few examples of some of the organizations and associations that help our department to remain knowledgeable and in compliance with federal laws and practices in the field of corrections. Eliminating or limiting access to these resources would have a significant negative impact on our agency.

Mr. Chairman and members of the committee I encourage you to vote a do not pass on this bill and allow agency leaders to determine when a membership adds value to the department and the state.

SB 2268 – Ability to participate in a consortia

Chairman Devers and members of the committee, for the record, my name is Dr. Aimee Copas and I represent the North Dakota Council of Educational Leaders. I stand before you today standing in strong opposition to SB 2268. Members of the committee, this bill while on its face may seem innocent in nature would have a broad reaching butterfly effect that would literally dismantle some of the most effective agreements that positively impact schools in our states. Further, in a state that values local control and local decision making, this bill would represent big government, state overreach, and state micromanagement.

This bill would eliminate or effectively tie the hands of a number of our most effective supporting agencies of education...just to name a few:

- Schools could no longer cooperatively purchase school materials for cost savings.
- Special education consortiums
- REA's
- The department of Career and Technical Education and all STEM network functions

There is no need to be afraid of a consortium and we believe the term is being thought about negatively by some as this concept is tied to other bills extreme in their nature. Quite simply, a consortium is a collective group, typically one made up of other groups like businesses, educational institutions, libraries, or financial companies. It is also possible to find one made up of individuals, such as a group of investors that bands together to create support for a project. When organized well and along cooperative lines, this type of group can be an incredibly powerful tool that benefits all of the individual members.

The concept of forming consortia in businesses is quite ancient. Many people in business are aware that, if they band together with people who have similar interests, they can create a powerful force to negotiate better contracts and pricing along with a more favorable business climate. As a result, traders historically often formed strong groups for the purpose of making expeditions to remote places and negotiating better terms, and this tradition has been carried on to the present day.

Academically, a consortium can also be a very useful tool. Many colleges and K12 Schools cooperate in this way so that they can pool academic resources like professional development, libraries, laboratories, and research funding. The formation also encourages students to partner with each other, forging strong

relationships and bonds that can be built upon in the future.

The structure of such a group varies, depending on the agreement the members reach. In some cases, each member is a distinct entity, retaining all of its own assets, and the members simply bargain or work together.

Members of the committee, we ask that North Dakota remain a state that allows for local decision making that is smart and benefits the local individual. We strongly recommend a do not pass of SB 2268.

SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
February 5, 2015 - 2:15 p.m. – Missouri River Room

North Dakota Department of Transportation
Darcy Rosendahl, Deputy Director

SB 2268

Mr. Chairman and members of the committee, I'm Darcy Rosendahl, Deputy Director for the North Dakota Department of Transportation (DOT). I'm here in opposition to SB 2268.

The bill appears to prohibit a state employee from being a member in or participating in any association or organization without the approval of the legislature. It is necessary for our department to have membership in organizations such as the American Association of Highway and Transportation Officials (AASHTO), the American Association of Motor Vehicle Administrators, (AAMVA), and other similar organizations that allow us to collaboratively work with other states to develop new standards, guidelines, and federal legislation that benefits North Dakota. It is important the department have a seat at the table when standards for signing, pavement marking, geometric design, etc, are established to assure they meet the needs of our state. Additionally, membership in organizations such as the International Fuel Tax Association and the International Registration Plan is necessary for us to conduct our motor carrier operations in our Motor Vehicle Division. There are many other organizations the department is a member of, or participates in, that greatly benefit the department and the state. Restricting membership would hamper the department's ability to assure North Dakota's needs are considered when developing standards, guidelines, or legislation that impact North Dakota.

Requiring legislative approval could also impact our ability to participate in organizations. For example, pooled fund studies, such as a study on new snow and ice products or equipment, consisting of a number of states are occasionally solicited among states. There is a specific time frame in which states must respond in order to participate. Requiring approval could impact the department's ability to respond in a timely matter.

Thank you. That concludes my testimony. I'd be happy to answer any questions you may have.

COMMISSIONER
DOUG GOEHRING



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**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
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**Testimony of Tom Bodine, Deputy Agriculture Commissioner
North Dakota Department of Agriculture
Senate Bill 2268
Senate Government and Veterans Affairs Committee
Missouri River Room
February 5, 2015**

Chairman Dever and members of the Senate Government and Veterans Affairs Committee, I am Deputy Agriculture Commissioner Tom Bodine here today on behalf of Commissioner Goehring. Thank you for the opportunity to appear before the committee. I am here today in opposition of SB 2268, which relates to state employees participating in interstate organizations without legislative authority.

Participation in state and national organizations helps North Dakota remain a leader and innovator in agriculture. Commissioner Goehring, division directors and staff participate in these organizations to bring the state's perspective to conversations and contribute to national harmonization efforts and policy initiatives. Staff from our department have directly pushed back against federal agency overreach and worked to find solutions for North Dakota agriculture. This bill could impede those efforts.

Accordingly, Chairman Dever and committee members, I urge a "do not pass" on SB 2268. I would be happy to answer any questions you may have.

COMMISSIONER
DOUG GOEHRING



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**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

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**Testimony of Carrie Larson
Plant Industries Director
Senate Bill 2268
Senate Government and Veterans Affairs Committee
Missouri River Room
February 5, 2015**

Chairman Dever and members of the Senate Government and Veterans Affairs Committee, I am Carrie Larson, Plant Industries Director for the North Dakota Department of Agriculture (NDDA) here representing Agriculture Commissioner Doug Goehring. I am here today in opposition of SB 2268, which relates to the authority of state employees to participate in interstate organizations without legislative authority.

The North Dakota Department of Agriculture is a member of the National Plant Board, which includes the plant pest regulatory agencies of each of the states. This is the primary avenue in which we communicate with other state agriculture departments regarding plant pest regulatory issues designed to protect agriculture, horticulture, and forestry on a state, national, and international level. An example of this is the Japanese Beetle Harmonization Plan. This plan is the foundation that states use to certify pest-free nursery stock. North Dakota receives 80% of all nursery stock from Minnesota. In order for Minnesota to ship nursery stock to North Dakota, they must follow the plan to certify nursery stock that moves into our state.

Without this avenue of communication and membership in Plant Board, we would be left out of national conversations that help set standards to assure that pest risks are acceptably managed.

We would be left to develop our own regulations, which could result in harming the North Dakota nursery industry or causing shortages of nursery stock.

In 2014, NDDA launched our Pollinator Plan and established best management practices (BMPs) for beekeepers, pesticide applicators and landowners. After conversations at the National Association of State Departments of Agriculture (which Commissioner Goehring and I attended this week), Association of American Pesticide Control Officials and federal agencies, five states have now adopted a parallel plan, and 20 more states are formulating their own plan. The Environmental Protection Agency is in conversations with these associations about how to best use pollinator plans in conjunction with pesticide labeling requirements. This is an example of North Dakota leading the way in national agriculture and spreading that message throughout the country.

Furthermore, Commissioner Goehring has introduced policy on unmanned aircraft systems use in agriculture, opposition to the Waters of the US rule, antimicrobial resistance research and best management practices, and tax policy extensions. Participating in national conversations allows us to learn from what other states and organizations are doing, but it also allows us to show them the North Dakota way.

Chairman Dever and committee members, thank you for your time, I urge a do not pass on SB 2268. I would be happy to answer any questions you may have.

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TESTIMONY ON SENATE BILL NO. 2268

Senate Government and Veterans Affairs Committee

**Patrick Fridgen, Director of Planning and Education
North Dakota State Water Commission**

February 5, 2015

Chairman Dever, and members of the Senate Government and Veterans Affairs Committee, my name is Patrick Fridgen. I am the Director of the Planning and Education Division at the North Dakota State Water Commission.

I appear today in opposition to Senate Bill No. 2268. This bill restricts state employees from participating in any interstate association, compact, consortium, or similar organization without legislative authority. It also provides penalties for employees who do so, which range from Class A felonies to Class B misdemeanors.

The North Dakota State Water Commission and the Office of the State Engineer are two of the state's lead agencies involved in water management and development. One of the more important realities that impact our efforts to effectively manage our water resources on a day-to-day basis is the fact that our state's watershed boundaries intersect every one of our state's borders – north, south, east, and west. And we have rivers, streams, and also weather events that originate, enter, and leave our state with a total disregard for any political boundaries.

For that reason, every one of our divisions at the North Dakota State Water Commission and the Office of the State Engineer have employees who are involved with interstate and even international organizations that directly deal with water and weather-related efforts affecting our state on an inter-jurisdictional basis. As examples, we currently have employees who regularly participate in efforts related to the: International Joint Commission, Red River Basin Commission, Missouri River Association of States and Tribes, Western States Water Council, Missouri River Recovery and Implementation Committee, North American Weather Modification Council, Association of Western States Engineers, and the newly forming Assiniboine River Basin Commission – just to name a few.

It is through our involvement with interstate and international organizations that we are afforded valuable opportunities to represent North Dakota's interests, foster relationships with other jurisdictions, and make better-informed technical decisions regarding everything from major floods to droughts. It is imperative that agency directors maintain flexibility to assign the most qualified professionals as needed to these organizations – to provide guidance, and in some cases, to resolve complicated water management issues involving multiple jurisdictions.

In short, we believe this legislation will negatively impact the State of North Dakota's ability to use those opportunities to influence policies and external jurisdictional decisions that can have a profound impact on the waters of our state. And for these reasons, we respectfully request that the committee give Senate Bill No. 2268 a do not pass recommendation.

Chairman Dever, this concludes my testimony, and I will be happy to answer any questions that the committee might have at this time.

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**Testimony for Public Hearing
SB 2268
Senate Government and Veterans Affairs Committee
Feb. 5, 2015**

Cheri Giesen
Job Service North Dakota
1000 E Divide Ave
Bismarck, ND 58501

SB 2268 – Relating to authority of state employees to participate in interstate organizations without legislative authority.

Good afternoon Chairman Dever and Committee members. My name is Cheri Giesen and I am the Executive Director of Job Service North Dakota.

I am here today to testify in opposition to SB 2268 as it currently is written. It is our hope that appropriate amendments will be proposed to match the bill's intent.

Job Service North Dakota's main objection is with agencies not having the ability to join associations and consortiums that obligate public funds. Job Service North Dakota currently belongs to several organizations which support our mission or support our staff. For example, we belong to the National Association of State Workforce Agencies which keeps us apprised of workforce challenges and often communicates these challenges on our behalf.

Job Service staff also belong to many professional organizations such as the National Association of Unemployment Insurance Appeals Professionals, the Society of Human Resource Management, and our veterans reps belong to veteran's organizations such as the American Legion and AMVETS. Membership in these organizations allows Job Service to be

competitive with private industry, improve employee retention, and most importantly allows our staff to stay on top of current issues.

As you know, Job Service North Dakota receives the majority of our public funds from the federal government and administers federal workforce programs. The U.S. Department of Labor, for example, places a great deal of emphasis on consortium participation due to the cost savings of having states work together in such areas as unemployment insurance modernization and unemployment insurance fraud prevention.

If the reference to consortiums remains in SB 2268, we may be limited in our ability to respond to and take advantage of U.S. Department of Labor opportunities as they arise or to leverage the power of multi-state consortiums to contract for services. An example of a successful consortium we currently participate in is a consortium of states and North Dakota agencies that contracts for debit card services. Consortium participation has allowed us to negotiate an agreement with our debit card vendor that is vastly superior to agreements that non-participating states received. This has provided great cost savings and a much higher level of service to the citizens of North Dakota.

Job Service North Dakota would like to keep the flexibility of joining a consortium which would obligate public funds. However, we completely understand that we couldn't join a consortium or organization that would commit the state to a policy. For example, Job Service understands and supports that the legislature maintains ultimate control over the most significant actions in the unemployment insurance area as they write the guiding unemployment insurance laws.

So, in summary Mr. Chairman and members of the committee, Job Service North Dakota is asking the committee to allow agencies to join associations and organizations that obligate

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public funds. We would support, however, an amendment that prohibits an agency from committing the state of North Dakota to a policy change.

Thank you for your time and consideration.

Respectfully submitted,

Cheri Giesen
Executive Director, Job Service North Dakota

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North Dakota Department of Transportation

Grant Levi, P.E.
Director

Jack Dalrymple
Governor

February 6, 2015

The Honorable Dick Dever, Chair
Senate Government & Veterans Affairs Committee
Senate Chambers
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Chairman Dever and Committee Members:

Subject: Question from February 5, 2015 Hearing on SB 2268

This letter is in response to a question Senator Cook asked me at the hearing on SB 2268.

1. Does the Department of Transportation belong to a driver's license compact and what legislative oversight is there on that compact?

The State of North Dakota entered into the Driver's License Compact (DLC) in 1986. The DLC is not an active organization. The DLC is an agreement by the states to process violators of law in similar ways and to support each other to avoid jurisdiction hopping. In this way, upon adoption of the DLC, the State of North Dakota provides reciprocal statutes to other participating jurisdictions.

The compact does not require the State of North Dakota Driver's License Division to implement policies or procedures outside of the legislative process. All driver laws that defined the joint responsibility of jurisdictional members of the DLC were submitted to and debated by the legislative assembly. Only after the changes to statute were sufficient to meet the requirements of the DLC could the State of North Dakota participate.

If you have any additional questions please let me know.

Sincerely,

Darcy R. Rosendahl, P.E.
Deputy Director

c: Senator Dwight Cook
Grant, Levi, NDDOT Director