

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2172

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2172


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2172

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-19-05

Tape Number	Side A	Side B	Meter #
1		X	330-1521
Committee Clerk Signature 			

Minutes:

Chairman Mutch opened the hearing on SB 2172. 5 Senators were present, 1 absent. SB 2172 relates to exempting service in Americorps as covered employment for unemployment insurance purposes.

Senator Rich Wardner of District 37 introduced the bill. Americorps are a big help to the community of Dickinson, and the volunteers don't get much help financially.

Jerry Hoan of the ND Dept of Commerce, Workforce Development Division, Americorps program officer for the State of ND, appeared in support of the bill. He handed out a copy of the Un-employment Insurance White Paper for the committee members, see attached.

Senator Mutch- What does Americorps do?

Jerry- Americorps are volunteers that help out in many areas such as tutoring, helping local school districts. The members receive a living allowance, we have some of the members here today who would be available for questions.

Senator Klein- We are putting in a statute the ability to stay out of being involved with un-employment?

Jerry- Right. The way things are right now, the members would be subject to unemployment insurance.

Senator Klein- As volunteers, they can come and go, and quit whenever they please?

Jerry- Yes, that is correct.

Kris Fehr, the Executive Director of the Western Wellness Foundation appeared in support of the bill. See written testimony.

Senator Nething- What part of 2005, you would become liable for unemployment insurance?

Kris- We currently have an exemption, but in May we would have to start paying for it.

Senator Nething- We should put an emergency clause on this bill, because otherwise this bill would not go into effect until August 1.

Kris- That would be great for us, because we are currently working on our budget and our board is waiting for the outcome of this legislation.

Senator Mutch- Is this a federal type of a program?

Kris- Yes. It comes from Appropriations for National Community Service, which was enacted by federal legislation. That money comes to the state as a block grant, and we apply for the state money.

Mutch- Are you an employee of the federal government?

Kris- I am an employee of the Western Wellness Foundation, a non-profit entity in Southwestern ND.

Jerry- Currently we have 7 subgrantees in the state of ND similar to the one in Dickinson.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number 2172

Hearing Date 1-19-05

Bonnie Palecek, the Executive Director of the ND Council on Abused Women's Services appeared in support of the bill. See written testimony.

This concluded the testimony for SB 2172. The hearing was closed.

Senator Klein moved for the emergency clause. Senator Espegaard seconded.

Roll Call vote- 6 yes, 0 no, 1 absent

Senator Klein moved a DO PASS as amended, Senator Nething seconded.

Roll Call vote- 6 yes, 0 no, 1 absent

Carrier- Fairfield

FISCAL NOTE

Requested by Legislative Council
01/12/2005

Bill/Resolution No.: SB 2172

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

Senate Bill No. 2172 would have no appreciable fiscal impact on the operations of the Unemployment Insurance program. The impact on the Unemployment Insurance Trust Fund would also be minimal, under \$4000 annually in revenue loss due to the removal of the need to pay taxes on the wages paid to Americorps "volunteers."

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.*

As stated in Question 2, there is no appreciable fiscal impact on the Revenues of the Agency, and minimal (\$4000 annual reduction) impact on revenues to the UI Trust Fund.

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.*

There is no appreciable impact on Expenditures.

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.*

There is no change in Appropriations necessary.

Name:	John Graham	Agency:	Job Service
Phone Number:	701-328-2843	Date Prepared:	01/14/2005

14
Date:
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Emergency clause

Action Taken _____

Motion Made By Klein Seconded By Espesgaard

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp		
Senator Krebsbach	X				
Senator Nething	X				
Senator Espesgaard	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Fairfield

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

Date: 12
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 2172 as Amended

Action Taken DO Pass

Motion Made By Klein Seconded By Nething

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp		
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Fairfield

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

REPORT OF STANDING COMMITTEE

SB 2172: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2172 was placed on the Sixth order on the calendar.

Page 1, line 3, after "purposes" insert "; and to declare an emergency"

Page 1, after line 9, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2172

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2172

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-1-05

Tape Number	Side A	Side B	Meter #
1	x		0-23.3
Committee Clerk Signature <i>Jody Reunke</i>			

Minutes:

Chairman Keiser: Opened the hearing on SB 2172. All committee members were present.

Senator Wardner: Appeared in support of SB 2172 and also was a sponsor. I just want to emphasize in conclusion its about the fact that they are volunteers that do a lot of good things and they don't get paid very much, and this would be the right thing to do.

Jerry Houn, Program Officer for the State Commission on National Community Service:

Appeared in support of bill and provided a written statement (SEE ATTACHED TESTIMONY).

Members do not receive a hourly wage, minimum they can receive is \$6.00 a hour.

Representative Kasper: What is the age of the volunteers?

Jerry Houn: They range from 17 to 60 plus.

Chairman Keiser: If the program will pay 85 % of the cost, the 15% is what is considered to be a burden?

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number SB 2172

Hearing Date 3-1-05

Jerry Houn: That is correct. The whole purpose of the Americorp Program is that a member can serve no more than 2 years.

Bonnie Palecek, Executive Director of the ND Council on Abused Women's Services:

Appeared in support of bill and provided a written statement (SEE ATTACHED TESTIMONY).

Kris Fehr, Executive Director of Western Wellness Foundation: Provided a written statement on SB 2172 (SEE ATTACHED TESTIMONY).

Representative Dosch: Do you know these organizations that are currently exempt, are they required to notify their employees or volunteers that there is no unemployment coverage?

John Graham: The law requires the other side of the coin. The reality is that if they are participating at the level that they mentioned they are going to be eligible for almost no benefits at the level that Bonnie Palecek is talking about. They don't have enough base period wages to be eligible.

Hearing closed.

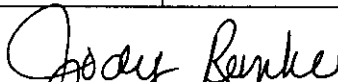
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2172

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-2-05

Tape Number	Side A	Side B	Meter #
1	x		0.-9.9
2		x	12.0-23.6
Committee Clerk Signature 			

Minutes:

Chairman Keiser: Reconvened on SB 2172.

Representative N. Johnson: I move a **DO PASS** on SB 2172.

Representative Ekstrom: I **SECOND** the **DO PASS** motion.

Motion failed. **VOTE: 6-YES 7-NO 1-Absent (DOSCH).**

Representative Kasper: I move a **DO NOT PASS** on SB 2172.

Representative Clark: **SECOND** the **DO NOT PASS** on SB 2172.

Motion failed. **VOTE: 6-YES 7-NO 1-Absent (DOSCH).**

Representative Thorpe: I move a **DO PASS** on SB 2172.

Representative Ekstrom: **SECOND** the **DO PASS** motion.

Motion carried. **VOTE: 7-YES 6-NO 1-Absent (DOSCH).**

Representative Ekstrom will carry the bill on the floor.

Date: 3-2-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2172

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Johnson Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman		X	Rep. B. Amerman		X
N. Johnson-Vice Chairman	X		Rep. T. Boe		X
Rep. D. Clark		X	Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe		X
Rep. M. Dosch	A				
Rep. G. Froseth	X				
Rep. J. Kasper		X			
Rep. D. Nottestad	X				
Rep. D. Ruby		X			
Rep. D. Vigasaa	X				

Total (Yes) 6 No 7

Absent (1) Rep. Dosch

Floor Assignment _____

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

Date: 3-2-05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2172

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Kasper Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman		X	Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom		X
Rep. D. Dietrich		X	Rep. E. Thorpe		X
Rep. M. Dosch	A				
Rep. G. Froseth		X			
Rep. J. Kasper	X				
Rep. D. Nottestad		X			
Rep. D. Ruby	X				
Rep. D. Vigesaa		V			

Total (Yes) 6 No 7

Absent (1) Rep. Dosch

Floor Assignment _____

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

Roll Call Vote #: 3 Date: 3-2-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2172

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Thorpe Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman		X	Rep. B. Amerman		X
N. Johnson-Vice Chairman	X		Rep. T. Boe		X
Rep. D. Clark		X	Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	A				
Rep. G. Froseth	X				
Rep. J. Kasper		X			
Rep. D. Nottestad	X				
Rep. D. Ruby		X			
Rep. D. Vigesaa	X				

Total (Yes) 7 No 6

Absent (1) Rep. Dosch

Floor Assignment Rep. Ekstrom

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

REPORT OF STANDING COMMITTEE (410)
March 2, 2005 2:50 p.m.

Module No: HR-38-4006
Carrier: Ekstrom
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2172, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2172 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2172

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

118 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Senate Industry, Business and Labor Committee
Testimony SB 2172
January 19, 2005

Same given to House

Chairman Mutch and Members of the Committee:

My name is Bonnie Palecek, Executive Director of the ND Council on Abused Women's Services. I am here today to speak in support of Senate Bill 2172.

In case you've never heard of AmeriCorps, let me take a brief moment to explain the program. Participants agree to serve a set number of hours ranging from 1700 to 450. The maximum length of time a participant may take to serve these hours is generally nine to twelve months. During their service they receive a small living allowance and upon completion of their contracted hours they also receive a small education award. Our agency currently receives an AmeriCorps grant and has eight participants serving around the state. They serve valuable roles within the agencies in which they are placed, and in six months have already completed some of their year long goals. Needless to say we are very excited to have them in service to our organization.

We are, however, concerned that our agency and those like us are required to pay unemployment insurance for our participants. The United States Department of Labor has ruled that the Federal Unemployment Act (FUTA) does not apply to AmeriCorps participants. The Department's ruling offers guidance, but in no way binds states to exclude AmeriCorps participants from their individual unemployment insurance provisions. In the Definitions section of the enabling legislation, the rule is that "[a] participant shall not be considered to be an employee of the program in which the participant is enrolled." (42 U.S.C. 12511(17)(B)). Moreover, participants are not allowed to perform an employee's duties or otherwise displace employees. Therefore, since participants are not employees, we believe they should not be subject to state unemployment laws.

Congress was very specific in its definition of such participants. To understand Congress' intent, it is important to understand the goals of the national service program. National service is not an employment program; it is a service program. Unemployment insurance provides a safety net for employees who lose their livelihood due to an involuntary loss of employment. A participant's separation from service, for whatever reason, does not result in a loss of livelihood. Providing unemployment payments to a former AmeriCorps member makes no more sense than providing unemployment benefits to a former student who had been receiving room and board as part of a scholarship.

AmeriCorps' participation is governed by a contract that anticipates the member's voluntary departure at or before the end of their service term. Unless the member chooses to terminate the relationship early, he or she can only be separated by cause. Regardless of the specific program, participants are not under the impression that their service terms are for an indefinite amount of time. The very notion of involuntary loss of a job makes no sense in the context of AmeriCorps service.

Furthermore, the fiscal impact of an AmeriCorps member seeking and receiving unemployment compensation could be devastating to our agency. Another grantee, The Learning Center, in Cooperstown has had three members file and receive unemployment benefits. They have seen their Job Service rate increase from .59% in 2000 to 1.19% in 2005. This kind of increase means valuable money that could be going into our ND communities is not. We also have concerns that our own rate will increase.

We believe everything possible should be done to encourage national service. Exempting nonprofits such as ours from this additional burden seems reasonable and ultimately should encourage other agencies like ours to provide this opportunity.

Thank you for your favorable consideration of SB 2172.

Bonnie Palecek

Unemployment Insurance White Paper

The United States Department of Labor has ruled that the Federal Unemployment Tax Act (FUTA) does not apply to AmeriCorps participants. The Department's ruling offers guidance, but in no way binds states to exclude AmeriCorps personnel from their individual unemployment insurance provisions. Many states have, however, chosen to follow the federal government's lead.

Unemployment systems provide a safety net for employees who lose their livelihood due to an involuntary loss of employment. Unlike employees, "participants" do not work for general wages. Instead they receive a living allowance that simply enables them to participate in the AmeriCorps program. A member's separation from service, for whatever reason, does not result in a loss of livelihood. Providing unemployment payments to a former AmeriCorps member makes no more sense than providing unemployment benefits to a former student who had been receiving room and board as part of a scholarship.

AmeriCorps participation is governed by a contract that anticipates the member's voluntary departure at or before the end of their service term. Unless the member chooses to terminate the relationship early, he or she can only be separated for cause. The very notion of involuntary loss of a job makes no sense in the context of AmeriCorps service.

The laws in several states suggest an exemption for AmeriCorps participants. For example, New York law excludes "services rendered for a non-profit organization by ... a person who participates in a youth service program designed to foster a commitment to community service and occupational and educational development and who, while participating in that program, performs services in the community or attends school and receives a stipend designed to cover expenses incurred in performing services or attending school, and is eligible for an award or scholarship upon leaving the program." Similarly, California excludes employment that is part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof. Other states, including Wisconsin and Washington, have adopted very specific exceptions for some types of service "participants" and programs.

The labor departments of some states have granted specific exemptions for AmeriCorps members. Both Pennsylvania and Texas have issued rulings exempting AmeriCorps members from their states' unemployment insurance coverage.

Each grantee's obligation to pay for unemployment compensation will depend on the law of the state and the labor department's interpretation of the law's application to AmeriCorps members. For grantees that operate programs in states requiring coverage, the Corporation will pay 85% of the program's share of unemployment taxes if the grantee includes such costs in their approved budget. Questions relating to your state's unemployment insurance program should be directed to the branch of state government in charge of unemployment compensation.



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701-483-8615, 877-877-8685
Fax: 701-225-6225

friends@ndsupernet.com
www.westernwellness.org

January 19, 2005

Dear Chairman Mutch and Committee Members,

My name is Kris Fehr and I am the Executive Director of Western Wellness Foundation, based in Dickinson and serving at-risk children and their families in the eight county region of southwest North Dakota. Senator Rich Wardner asked me to provide information to you on the impact to our small non-profit agency if SB 2172 doesn't pass.

Western Wellness Foundation is a new AmeriCorps grantee. We have 35 AmeriCorps members providing educational support to youth from ages 6 to 19 in Region 8. The AmeriCorps program is one of service, not of employment. When AmeriCorps was founded in 1993, the federal government wanted to make it simple for people to volunteer and for agencies to create the opportunities for people to volunteer. In exchange for their service, AmeriCorps members receive a small stipend and a scholarship. The hours that an AmeriCorps member serves aren't equated to a dollar amount per hour. The member serves and is given a stipend. Making AmeriCorps service positions eligible for unemployment compensation unnecessarily complicates the issue and goes against the federal legislative intent.

In the AmeriCorps rules, an AmeriCorps program must certify that an AmeriCorps member will not either displace or fulfill the responsibilities of a regular employee. Further, the U.S. Labor Department ruled that there is no employer-employee relationship between an AmeriCorps grantee and an AmeriCorps member – and it has exempted AmeriCorps members from federal unemployment withholding and compensation. If we follow these rules from the federal government, it wouldn't make sense to pay unemployment for a "participant" or "volunteer" filling a position that cannot be regular employment.

AmeriCorps members sign an annual service contract. The AmeriCorps provisions state that members can be released from their contracts for "compelling circumstances:" one being acceptance of an employment opportunity and another being acceptance of an opportunity to make the transition from welfare to work. This also seems to imply that AmeriCorps service isn't employment.

Many states already have either enacted legislation to specifically exempt AmeriCorps members from unemployment or to suggest an exemption for AmeriCorps participants. Some of these states are New York, California, Wisconsin, Tennessee, Washington, Texas, Pennsylvania and many others.

For Western Wellness Foundation, the implications of this bill are huge. We are a small foundation: we have only two employees. To date, we are not liable for job insurance coverage. However, we will be liable for unemployment insurance in 2005 due to adding 35 AmeriCorps members. Because we are new, we will need to pay at a higher rate: It could be more than 6 percent, depending on the method used to figure unemployment, which would cost us nearly \$10,000 in a year. This is money that wasn't included in our grant proposal. We would like to keep this money in our communities, where it being spent and put to work to help the economy, rather than withholding it.

Thank you for the opportunity to provide information on the impact of SB 2172 to Western Wellness Foundation. I would be happy to answer any questions either at this hearing or through telephone or email, both of which are on the letterhead.

Sincerely,

A handwritten signature in cursive script that reads "Kris Fehr".

Kris Fehr
Executive Director

SB. 2172 Jerry
3-1-05

Unemployment Insurance White Paper

The United States Department of Labor has ruled that the Federal Unemployment Tax Act (FUTA) does not apply to AmeriCorps participants. The Department's ruling offers guidance, but in no way binds states to exclude AmeriCorps personnel from their individual unemployment insurance provisions. Many states have, however, chosen to follow the federal government's lead.

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AmeriCorps participation is governed by a contract that anticipates the member's voluntary departure at or before the end of their service term. Unless the member chooses to terminate the relationship early, he or she can only be separated for cause. The very notion of involuntary loss of a job makes no sense in the context of AmeriCorps service.

The laws in several states suggest an exemption for AmeriCorps participants. For example, New York law excludes "services rendered for a non-profit organization by ... a person who participates in a youth service program designed to foster a commitment to community service and occupational and educational development and who, while participating in that program, performs services in the community or attends school and receives a stipend designed to cover expenses incurred in performing services or attending school, and is eligible for an award or scholarship upon leaving the program." Similarly, California excludes employment that is part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof. Other states, including Wisconsin and Washington, have adopted very specific exceptions for some types of service "participants" and programs.

The labor departments of some states have granted specific exemptions for AmeriCorps members. Both Pennsylvania and Texas have issued rulings exempting AmeriCorps members from their states' unemployment insurance coverage.

Each grantee's obligation to pay for unemployment compensation will depend on the law of the state and the labor department's interpretation of the law's application to AmeriCorps members. For grantees that operate programs in states requiring coverage, the Corporation will pay 85% of the program's share of unemployment taxes if the grantee includes such costs in their approved budget. Questions relating to your state's unemployment insurance program should be directed to the branch of state government in charge of unemployment compensation.

LB2172 Jerry



AmeriCorps

*AmeriCorps engages 50,000 Americans age 17 and older each year in intensive service to meet community needs in education, the environment, public safety, homeland security, and other areas. Members serve with national nonprofit organizations like Habitat for Humanity, the American Red Cross, and Teach for America, as well as with hundreds of smaller community organizations, both secular and faith-based. Other members serve with AmeriCorps*NCCC (National Civilian Community Corps), a team-based residential program for adults ages 18 to 24, or in low-income communities with AmeriCorps*VISTA. In exchange for a year of service, AmeriCorps members earn an education award that can be used to pay for college or to pay back qualified student loans.*

OVERVIEW

Since 1994, more than 250,000 men and women have served in AmeriCorps, providing needed assistance to millions of Americans. AmeriCorps provides trained, dedicated people to help nonprofit groups, both secular and faith-based. Members tutor and mentor youth, build affordable housing, teach computer skills, clean parks and streams, run after-school programs, help communities respond to disasters, and recruit and manage traditional volunteers. At the request of President Bush, AmeriCorps has expanded its work to include projects directly related to homeland security.

AMERICORPS*STATE AND NATIONAL

More than three-quarters of AmeriCorps grant funding goes to Governor-appointed state service commissions, which in turn award and monitor grants to hundreds of nonprofit groups and agencies. The other quarter goes to national nonprofits that operate in more than one state.

The organizations that receive grants are responsible for recruiting, selecting, and supervising AmeriCorps members. AmeriCorps grantees include national groups such as the U.S. Veterans Initiative, National Council of La Raza, Catholic Network of Volunteer Service, and Boys and Girls Clubs of America, as well as hundreds of smaller faith-based and local community organizations.

AMERICORPS*VISTA

For more than 35 years, AmeriCorps*VISTA members have helped impoverished individuals and communities attain self-sufficiency. Members serve full time for a year with nonprofit groups, public agencies, and faith-based organizations throughout the country, working to fight illiteracy, improve health services, create and expand businesses, increase housing opportunities, and bridge the digital divide.

Approximately 6,000 AmeriCorps*VISTA members serve in more than 1,100 local programs; nearly 15 percent of

(Continued)

FACT SHEET

Corporation for
**NATIONAL &
COMMUNITY
SERVICE** ★ ★ ★

1201 New York Ave., N.W. ★ Washington, DC 20525 ★ 202-606-5000
www.nationalservice.org

USA ★
Freedom Corps
The President's Call to Service

AmeriCorps*VISTA members are assigned to projects that support the work of faith-based organizations.

AMERICORPS*NCCC

AmeriCorps*NCCC (National Civilian Community Corps) is a 10-month, team-based, full-time residential program for men and women between the ages of 18 and 24. It combines the best practices of civilian service with the best aspects of military service, including leadership training and team building. Members serve in diverse teams of 10 to 14 individuals. Priority is given to projects in homeland security and disaster relief. Teams are based at five campuses across the country and are assigned to projects in their respective regions. Approximately

200 members serve in AmeriCorps*NCCC.

ELIGIBILITY AND BENEFITS

AmeriCorps is open to U.S. citizens, nationals, or lawful permanent resident aliens age 17 and older. Members serve full or part time over a 10- to 12-month period. Upon successful completion of their service, members receive an education award of \$4,725 to pay for college, graduate school, or to pay back qualified student loans. During their service, members receive health insurance, training, and student loan deferment. About half of the members also receive a modest annual living allowance of about \$9,300. Members who serve part time receive a partial education award.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps is administered by the Corporation for National and Community Service, which also oversees Senior Corps and Learn and Serve America. Together, the programs of the Corporation provide opportunities for Americans of all ages and backgrounds to serve their communities and country.

USA FREEDOM CORPS

The Corporation and its programs are part of USA Freedom Corps, a White House initiative to foster a culture of citizenship, service, and responsibility, and help all Americans answer the President's Call to Service.

MORE INFORMATION

To learn more about AmeriCorps, visit www.americorps.org or call 800-942-2677 or TTY 800-833-3722.

January 2003

February 28, 2005

Dear Chairman Keiser, Vice Chairman Johnson and Committee Members,

My name is Kris Fehr and I am the Executive Director of Western Wellness Foundation, Inc., based in Dickinson and serving at-risk children and their families in the eight county region of southwest North Dakota. I am not a lobbyist. The sponsors of SB 2172, Sen. Rich Wardner and Rep. Nancy Johnson, asked me to provide information to you on the impact to our small non-profit agency if this bill doesn't pass.

Western Wellness Foundation is a new AmeriCorps grantee and is the largest project in the state. We have 35 AmeriCorps members providing educational support to youth from ages 6 to 19 in Region 8. The AmeriCorps program is one of service, not of employment. When AmeriCorps was founded in 1994, the federal government wanted to make it simple for people to volunteer and for agencies to create the opportunities for people to volunteer. In exchange for their service, AmeriCorps members receive a small stipend and a scholarship. The hours that an AmeriCorps member serves aren't equated to a dollar amount per hour. The member serves and is given a stipend. Making AmeriCorps service positions eligible for unemployment compensation unnecessarily complicates the issue and goes against the federal legislative intent.

In the AmeriCorps rules, an AmeriCorps program must certify that an AmeriCorps member will not either displace or fulfill the responsibilities of a regular employee. Further, the U.S. Labor Department ruled that there is no employer-employee relationship between an AmeriCorps grantee and an AmeriCorps member—and it has exempted AmeriCorps members from federal unemployment withholding and compensation. If we follow these rules from the federal government, it wouldn't make sense to pay unemployment for a 'participant' or 'volunteer' filling a position that cannot be regular employment.

AmeriCorps members sign an annual service contract. The AmeriCorps provisions state that members can be released from their contracts for 'compelling circumstances': one being acceptance of an employment opportunity and another being acceptance of an opportunity to make the transition from welfare to work. This also seems to imply that AmeriCorps service isn't employment.

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Many states already have either enacted legislation to specifically exempt AmeriCorps members from unemployment or to suggest exemption for AmeriCorps participants. Some of these states are New York, California, Wisconsin, Tennessee, Washington, Texas, Pennsylvania and many others.

For Western Wellness Foundation, the implications of this bill are huge. We are a small foundation: have only two employees. To date, we are liable for job insurance coverage. However, we will be liable for unemployment insurance in 2005 due to adding 35 AmeriCorps members. Because we are new, we will need to pay at a higher rate: it could be more than 6 percent, depending on the method used to calculate unemployment, which would cost the project nearly \$10,000 in a year. This is money that wasn't included in our grant proposal. We would like to keep this money in our communities, where it is being spent and put to work to help the economy, rather than withholding it.

Thank you for the opportunity to provide information on the impact of SB 2172 to Western Wellness Foundation. I would be happy to answer any questions either via email at friends@ndsupernet.com or via my telephone at 701-483-8615.

Sincerely,

Kris Fehr
Executive Director
AmeriCorps Project Director