

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2267
(Senator Holmberg)

AN ACT to amend and reenact section 34-11.1-04 of the North Dakota Century Code, relating to whistleblower protection for public employees; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

34-11.1-04. Violations for misuse reported by employee - Reprisals prohibited - Furnishing false information - Labor department.

1. An employee may, without fear of reprisal, report in writing to the employee's respective agency head, a state's attorney, the attorney general, or an employee organization the existence of:
 - a. A job-related violation of local, state, or federal law, rule, regulation, or ordinance.
 - b. The job-related misuse of public resources.
2. For having made a report under subsection 1, no employee will:
 - a. Be dismissed from employment.
 - b. Have salary increases or employment-related benefits withheld.
 - c. Be transferred or reassigned.
 - d. Be denied a promotion that the employee otherwise would have received.
 - e. Be demoted.
 - f. Be discriminated against in any term or condition of employment.
3. An employee who intentionally furnishes false information is subject to disciplinary action, including suspension or dismissal as determined by the employee's appointing authority or designee. An employee ~~dismissed under this subsection~~ claiming reprisal under this section may appeal first to the ~~state personnel board~~ human resource management services division and then to the district court in the manner prescribed by chapter 28-32, or to other appropriate offices and then to district court if the employee is not under the jurisdiction of the ~~state personnel board~~ human resource management services division.
4. The labor department shall receive complaints of violations of this section and may attempt to obtain voluntary compliance with this section through informal advice, negotiation, or conciliation. To receive assistance from the labor department, a person claiming to be aggrieved by a violation of this section shall file a complaint with the department within three hundred days after the alleged act of wrongdoing. An employee is not prohibited from filing, or required to file, a complaint with the labor department under this subsection before proceeding under other provisions of this section.
5. An employee of the state may appeal a claim of reprisal under this section in the manner prescribed for a classified employee under chapter 54-44.3. This subsection does not

apply to an employee under the jurisdiction of the state board of higher education or the judicial branch of government.

SECTION 2. LEGISLATIVE COUNCIL STUDY - WHISTLEBLOWER LAWS. During the 2009-10 interim, the legislative council shall consider studying the state's whistleblower protection laws, including whether the laws adequately address the public policy issues related to whistleblower protection. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2267.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 89 Nays 1 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State