

Introduced by

1 A BILL for an Act to amend and reenact section 34-11.1-04 of the North Dakota Century Code,
2 relating to employee reports of violations of law or misuse of public resources.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

6 **34-11.1-04. Violations for misuse reported by employee - Reprisals prohibited -**
7 **Furnishing false information - Labor department.**

- 8 1. An employee may, without fear of reprisal, report in writing to the employee's
9 ~~respective~~ agency head, a state's attorney, the attorney general, or an employee
10 organization the existence of:
- 11 a. A job-related violation of local, state, or federal law, rule, regulation, or
12 ordinance.
 - 13 b. The job-related misuse of public resources.
- 14 2. a. If an agency head receives a report under subsection 1, the agency head
15 shall review the report, provide the employee with a written response, and
16 take other appropriate action if warranted under the circumstances. If the
17 written report from the employee raises a legitimate question on the proper
18 interpretation and application of law, the agency head shall seek written
19 guidance from legal counsel.
- 20 b. If a state's attorney or the attorney general receives a report under
21 subsection 1, the state's attorney or attorney general shall review the report
22 and determine whether the concerns raised involve internal management
23 decisions or issues of policy left to the discretion of an agency head. If the
24 report involves issues of policy or management, the state's attorney or

1 attorney general shall provide the employee with a general written
2 explanation. If the report involves a question on the proper interpretation and
3 application of law, the state's attorney or attorney general shall provide written
4 guidance to the agency head, with a copy provided to the employee.

5 3. For having made a report under subsection 1, ~~no~~ an employee will may not:

- 6 a. Be dismissed from employment.
7 b. Have salary increases or employment-related benefits withheld.
8 c. Be transferred or reassigned.
9 d. Be denied a promotion that the employee otherwise would have received.
10 e. Be demoted.
11 f. Be discriminated against in any term or condition of employment.

12 ~~3.~~ 4. An employee who intentionally furnishes false information is subject to disciplinary
13 action, including suspension or dismissal as determined by the employee's
14 appointing authority or designee. An employee claiming reprisal under this section
15 may appeal first to the human resource management services division and then to
16 the district court in the manner prescribed by chapter 28-32, or to other appropriate
17 offices and then to district court if the employee is not under the jurisdiction of the
18 human resource management services division.

19 4. ~~5.~~ The labor department shall receive complaints of violations of this section and may
20 attempt to obtain voluntary compliance with this section through informal advice,
21 negotiation, or conciliation. To receive assistance from the labor department, ~~a~~
22 ~~person~~ an individual claiming to be aggrieved by a violation of this section shall file
23 a complaint with the department within three hundred days after the alleged act of
24 wrongdoing. An employee is not prohibited from filing, or required to file, a
25 complaint with the labor department under this subsection before proceeding under
26 other provisions of this section.

27 ~~5.~~ 6. An employee of the state may appeal a claim of reprisal under this section in the
28 manner prescribed for a classified employee under chapter 54-44.3. This
29 subsection does not apply to an employee under the jurisdiction of the state board
30 of higher education or the judicial branch of government.

Sixty-second
Legislative Assembly

- 1 7. An employee found to have been subjected to a reprisal action under this section
2 may apply to the district court for an award of reasonable attorney's fees and costs.