

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2226

2001 SENATE JUDICIARY

SB 2226

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2226

Senate Judiciary Committee

☐ Conference Committee

Hearing Date January 22nd, 2001

Tape Number	Side A	Side B	Meter #
2	X		0
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2226: A BILL FOR AN ACT TO AMEND AND REENACT SECTIONS 34-01-20 AND 34-11.1-04 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO PROHIBITED EMPLOYER RETALIATION FOR EMPLOYEE REPORTING OF VIOLATIONS OF LAWS, ORDINANCES, OR REGULAITONS.

Senator Watne: representing District 5, testified in favor of SB 2226. (testimony attached)

Deborah Earnest, from Minot ND, testified in favor of SB 2226. (testimony attached)

Senator Traynor: Employed by veterens afairs? Your supervisor asked you to do county work, not Federal Veterans administrative work?

John Risch, United Transprotation Union, supports SB 2226.

Dominic Volechkee, proclaimed himself a whistle blower. Believes line 22 page 1 needs more time attached. Line 10 page 2 also needs changes. The statement on page 2 line 17 didn't happen to him, nothing happened.

Page 2
Senate Judiciary Committee
Bill/Resolution Number SB 2226
Hearing Date January 22nd 2001

Senator Bercier, your not employed by the state anymore? Do they keep records of your violations? Do you still have them?

Dominic yes I do.

Corene Hoffman, state attorney, bill prohibits retaliation. Retaliation for individual attempting to follow the law.

John Emter, whistle blower. All law is, is paper.

John Risch page 2 line 7. One problem is a 90 day time frame limit. 90 days should be increased to 300 days. We should omit line 7 to end of the paragraph.

Senator Traynor page 2 line 7 to the end of the paragraph. You want this removed.

John Risch, it would make the language stronger.

Senator Traynor closed the hearing on SB 2226.

**MOTION WAS MADE BY SENATOR TRENBEATH TO AMEND LINE 13 ON PAGE 3.
SECONDED BY SENATOR BERCIER. VOTE INDICATED 7 YEAS, 0 NAYS, AND 0
ABSENT AND NOT VOTING. A SECOND MOTION WAS MADE BY SENATOR
WATNE TO DO PASS AS AMENDED. SECONDED BY SENATOR TRENBEATH.
VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING.**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2226

Page 3, ~~overstrike~~ line 3, ~~overstrike~~ "A job related violation of state or federal agency rules."

Page 3, line 4, overstrike "c." and insert immediately thereafter ~~"b."~~

Renumber accordingly

Date: 1/22/01
Roll Call Vote #:)

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2226

Senate Judiciary _____ Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend in B pg. 3

Motion Made By Trenbath Seconded By Berrier

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment

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

Date: 1/22/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 513 2226

Senate	Judiciary	Committee
--------	-----------	-----------

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken	Do Pass as Amended
--------------	--------------------

Motion Made By Watne Seconded By Trebeath

[illegible]

Total (Yes) 7 No 0

Absent D

Floor Assignment Watne

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

REPORT OF STANDING COMMITTEE (410)
January 23, 2001 12:39 p.m.

Module No: SR-11-1422
Carrier: Watne
Insert LC: 10283.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2226: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2226 was placed on the Sixth order on the calendar.

Page 3, line 3, overstrike "A job related violation of state or federal agency rules."

Page 3, line 4, overstrike "c."

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2226

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2226

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-06-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 2498
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2226. Relating to prohibited employer retaliation for employee reporting of violations for employee reporting of violations of laws, ordinances or regulations.

Dina Butcher: Department of Labor, Director of Human Rights, I am here to say, the Labor Department has authority over the whistle blower provision at the state and federal level. This would extend those provisions to the local political subdivisions. It does not appear that it would add on to the case load, so we would be able to handle it. The commissioner asked me to relate that to the committee.

Rep Eckre: So the labor department says its fine with the legislation.

Dina Bucher: we are already doing this for the state and federal level, so this would extend to the political subdivisions.

Rep Eckre: So this would be expectable.

Dina Bucher: Yes.

Senator Watne: District 5, sponsor of the bill (see attached testimony).

Rep Mahoney: I was one of the original sponsor of the whistle blower law and I am sad to see this look hole. What type of local ordinance or regulation was violated.

Senator Watne: Her's was not a local ordinance.

Rep Mahoney: The lady will testify and she will tell us how to improve this law.

Senator Watne: No it was not a local ordinance, she was working for the VA administration.

Chairman DeKrey: Are there any further questions, seeing none, thank you for appearing. We will take further testimony in support of SB 2226.

Debra Earnest: She is the person who wrote the letter attached to Senator Watne's testimony. I was employed as a work study, under a contract to work for the Veterans Affairs. This contract said that I could only do veterans affairs work which was educational benefits for the veterans. Her supervisor (Garcia) brought in confidential work from another job (Ward County). I was threatened with dismissal if I didn't do the work that he laid out before me. Because she blew the whistle on her supervisor, she was fired. Veterans Affairs told him to stop doing this work and that was all that happened to him. I reported the offense to Protection and Advocacy and in turn was charged by the police with a felony, because she made copies of the work to take to the court house, nothing happened to him. I had no recourse, Veterans told him to quit, and the state told her it wasn't their problem. I tried to go through the court system, but it was rejected.

Rep Maragos: Reading through this letter, do you still feel that the supreme court acting illegally and in bad faith.

Debra Earnest: Yes, I do.

Rep Delmore: Were there others involved in doing this kind of work.

Page 3

House Judiciary Committee

Bill/Resolution Number SB 2226

Hearing Date 03-06-01

Debra Earnest: Yes, all the work study people.

Rep Delmore: No one else objected to this.

Debra Earnest: Nobody objected to him, we talked amongst ourselves.

Rep Delmore: Can you tell me why that might be.

Debra Earnest: The others depended on Mr Garcia for job recommendations. I did the work about I had no business dealing with those people. I had no business having access to that information.

Rep Mahoney: Your direct employer was Ward County.

Debra Earnest: No, the Department of Veterans Affairs, I was in the work study program.

Rep Mahoney: Have you tried to take this into federal court.

Debra Earnest: Not yet.

Rep Mahoney: Are you contemplating that.

Debra Earnest: Not yet, partially because my first attorney dropped the case and I had no knowledge, and I don't have the money.

Rep Mahoney: The additional work that you were doing, was that on extra time or while on the job.

Debra Earnest: I was paid hourly on the job.

Rep Mahoney: The extra work was that within the regular hours of work not after hours time.

Debra Earnest: No.

Rep Wrangham: If this bill goes into effect, how would it help you.

Debra Earnest: My supervisor's supervisor would have had to take action. His supervisor of the University system said that it wasn't their problem.

Rep Disrud: So your primary complaint was that Mr Garcia was using federal funds to do outside personal work. He was misusing grant funds for personal use.

Debra Earnest: That is correct.

Vice Chr Kretschmar: Just exactly what was your job.

Debra Earnest: Veterans that wanted to attend college, offered classes so veterans could brush up on those areas that were needed to do so.

Vice Chr Kretschmar: What type of work that Mr Garcia asked you to do that was not included in your contract.

Debra Earnest: He brought in Ward County work as a public administrator position. Had all the files mixed in with our files. We would take messages from clients, from attorneys, from the courthouse and his clients would come up to get checks.

Vice Chr Kretschmar: Were these people, primarily veterans, that you were working for.

Debra Earnest: No only veterans in the veterans reentry program.

Chairman DeKrey: If there are no further questions, thank you for appearing before the committee.

Senator Watne: I went over the Supreme Court decision with Jennifer Clark and one of the comments was the attorney had not filed enough papers. It was the opinion that she did not have adequate representation. She was getting the round around from different parts of the government. If this bill passes the Department of Labor would have to assist her.

Rep Maragos: What additional words prevent this from happening again.

Senator Watne: Because she was under a work study program through the college, working on a state issue, he had her working for Ward County, everyone said it was not their problem.

Page 5

House Judiciary Committee

Bill/Resolution Number SB 2226

Hearing Date 03-06-01

Rep Mahoney: Are you suggesting that the Labor Department would have helped her through this. Are you referring to the shall language. The only thing is, when I look at that, it leaves the discretion is in there.

Senator Watne: Labor Department needs the phrasing.

Rep Mahoney: I understand, but currently there is no way they can't receive the complaint. So I thing may or shall will not make a lot of difference. The problem is what they do with the complaint after they receive it.

Senator Watne: Someone else will have to answer that.

Rep Maragos: On page 3, line 3, why was that struck.

Senator Watne: That was struck because other language that was put in the other section that took care of it.

Chairman DeKrey: If there are no further questions, thank you for appearing. Anyone else wishing to testify, in opposition, if not we will close the hearing on SB 2226.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2226b

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-12-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	5781 to 6231
TAPE II	x		01 to 163
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2226.

COMMITTEE ACTION

DISCUSSION

Chairman DeKrey: what are the wishes of the committee. Rep Wrangham moved the following amendment - on line 23, change to 180 days, seconded by Rep Mahoney. Voice vote on the amendment, motion carries. Rep Delmore moved a DO PASS as amend, seconded by Rep Disrud.

TAPE II SIDE A

DISCUSSION CONTINUES

Chairman DeKrey: the clerk will call the roll on a DO PASS as amend motion on SB 2226. The motion passes with 13 YES, 0 NO and 2 ABSENT. Carrier Rep Onstad.

10283.0201
Title.0300

Adopted by the Judiciary Committee
March 12, 2001

YR
3/12/01

HOUSE AMENDMENT TO ENGROSSED SB 2226 HOUSE JUDICIARY 03-12-01
Page 1, line 23, replace "three" with "one" and after "hundred" insert "eighty"

Renumber accordingly

Date: 03-12-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2226

House JUDICIARY Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Rep Delmore Seconded By Rep Disrud

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke					
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Onstad

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

REPORT OF STANDING COMMITTEE (410)
March 12, 2001 4:37 p.m.

Module No: HR-42-5418
Carrier: Onstad
Insert LC: 10283.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2226, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS**
(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2226 was placed
on the Sixth order on the calendar.

Page 1, line 23, replace "three" with "one" and after "hundred" insert "eighty"

Renumber accordingly

2001 SENATE JUDICIARY
CONFERENCE COMMITTEE
SB 2226

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. ~~2225~~ 2226

Senate Judiciary Committee

 Conference Committee

Hearing Date March 28th, 2001

Tape Number	Side A	Side B	Meter #
1	x		0-3.8
Committee Clerk Signature			

Minutes: **Senator Watne**, opened the Conference Committee on SB 2226. The only change is on Page 1, line 23. The number of days. The law originally was ninety days, the senate moved it to 300 days and the House moved it to 120 days, we wanted to know why?

Rep. Klemin, let me address that. The number of days can be dependent upon completion of proceedings under subsection 4. Lets go there. On subsection 4, page 2 line 21. Lets say someone files a complaint you have 300 days under existing language. If we go back to page 1, we have 300 days after the completion of the complaint to issue we are now close to three years now. That is an awful long time. We thought 300 days was too much time. Reason we selected 180 days, is that is the amount of time to file a complaint to the state. It doesn't take six months to file a law suit.

Senator Watne, the whistle blowers were the ones asking for more time. If you back to the testimony you see this. What you've done seems logical.

Page 2

Senate Judiciary Committee

Bill/Resolution Number 2226

Hearing Date 28 march 01

Senator Watne motioned to accede to house amendments, seconded by Senator Watne.

Vote indicated 6 yeas, 0 nays and 0 absent and not voting.

Roll Call Vote #: /

Senate _____ **Committee**

☒ Conference Committee

Action Taken Agree to House Amendments.

Motion Made By Nelson Seconded By Dever

[illegible]

Total (Yes) 6 No 0

Absent **0**

Floor Assignment

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

REPORT OF CONFERENCE COMMITTEE (420)
March 28, 2001 4:13 p.m.

Module No: SR-54-7056

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SB 2226, as engrossed: Your conference committee (Sens. Watne, Dever, C. Nelson and Reps. Klemlin, Kingsbury, Mahoney) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 833 and place SB 2226 on the Seventh order.

Engrossed SB 2226 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY

SB 2226



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES
Judiciary
Vice Chairman
Political Subdivisions

for Darlene Wayne
District 5
570 28th Avenue SW
Minot, ND 58701-7065

January 22, 2001

Hon. Chairman Traynor, Members of the Senate Judiciary Committee:

If you are an incumbent legislator, you may remember a e-mail or letter from a woman named Deborah Earnest. She blew the whistle on her employer while she was a student at Minot State University and working for the Veteran's Administrator on a study program. Her employer was having her work for other entities, such as Public Administrator duties with private information in the files, and billing her time to the Veteran's Administration. She blew the whistle, he was asked to discontinue the practice, which he did, and it has been a contentious situation between them ever since. Deborah has appealed with her case as far as she can go, even to the Supreme Court, but she cannot let go of what she feels has been an injustice to her.

I have had a couple of attorneys go over her file and both of them feel she was probably not adequately legally represented from the beginning. She has not, however, filed charges through the North Dakota Bar Association. That is her decision, her frame of mind.

Attached to this testimony is a copy of the letter Deborah has out to the legislators. It carries some very serious allegations. It is a synopsis of the background of her case.

When I first visited with Deborah, found out about her contentions, and started getting into her allegations, I realized there was absolutely nothing I could see to do to help her with her particular situation. It seemed that her remedies by law had been exhausted. From my observations of Deborah, I feel this situation has deeply affected her life and she just cannot let go of the matter. She feels very "wronged."

Finally I asked Deborah how I could help her, what would help her feel better about our laws to perhaps prevent this from happening to others. She said that was her main goal: **Don't let this happen to others.**

I went to Jennifer Clark in the Legislative Council and asked her to review our "Whistle Blower Laws." Jennifer's review of Deborah's problem gave her the impression that the problem was "Not as much with the laws as with the system but we could strengthen our Whistle Blower Laws." I hope this bill will help that situation.

As I've said, Senate Bill 2226 is a bill to strengthen our Whistle Blower Laws. This bill does three things:

1. Our laws now pertain only to state or federal employment retaliation. This bill

extends the law to include local laws, ordinances, or regulations. This is on Page 1, Lines 12, 13, and 18. Also Page 3, Lines 1 and 2.

2. Page 12, Line 23 extends the time from 90 to 300 days for a person to seek relief or damages. An aggrieved party needs time to gather evidence, seek legal advice, find out where to go for help. Why limit that time to 90 days? For instance, if your first attorney doesn't work out or doesn't put effort towards your case, as what Deborah's case twice, this gives you time to visit with another one.

3. And, I believe, the most important part of this bill is one simple little word on Page 2, Line 17 which changes a "may" to "shall." These matters are a part of the Department of Labor and they certainly should not be able to receive a complaint. Every complaint deserves consideration and state investigation, if needed. And, remember, after seeking help from the Department of Labor, an aggrieved person could still seek remedy through the courts. Our laws are good laws in that regard.

So, fellow Members, that is an outline of what Senate Bill 2226 does. I hope you will agree with me that, whether Deborah's contentions are justified or not, and I believe they are, our Whistle Blower laws can be strengthened through the three proposals outlined.

Deborah is here today to share her story.

I urge a DO PASS recommendation on SB 2226.

Respectfully,



Darlene Watne
Senator, Fifth District

**Deborah A. Earnest
P. O. Box 581
Minot, ND 58702
701-837-6556**

July 24, 2000

Honorable Darlene Watne
520 28th Avenue SW
Minot, ND 58701-7065

Dear Senator Watne:

I am writing you and every single member of the North Dakota Legislative Branch concerning the grievously harmful actions that have been taken against me by the following individuals:

North Dakota Attorney General Heidi Heitkamp, Chief Justice Gerald W. VandeWalle, Justice William A. Neumann, Justice Dale V. Sandstrom, Justice Mary Muchlen Maring, Justice Carol Ronning Kapsner, North Dakota Assistant Attorney General Tag Anderson, Mr. Truman Stageberg, and Mr. Ronald L. Garcia.

These North Dakota public officials have violated numerous laws, covered up illegal actions against me and against several developmentally disabled persons, covered up illegal use of North Dakota taxpayers' dollars to defend **private actions** of public officials not within the scope of their employment, covered up misuse of federally funded workstudies, and covered up misuse of Minot State University resources. Some of these actions would cause those officials holding licenses to practice law in North Dakota to lose their license to practice law. Some of these actions are punishable by fines/and or imprisonment. These public officials' actions have corrupted the North Dakota judicial system and threaten the rights of every citizen in the state.

ND Attorney General Heitkamp and ND Assistant Attorney General Anderson **illegally used taxpayer dollars** to defend numerous actions of Ronald L. Garcia that were **illegal and not within the scope of his employment**. These actions include the wrongful use of Department of Veterans Affairs (VA) federally funded workstudies to help with Ward County Work that directly benefited Garcia and violated the federal workstudy contracts. The North Dakota Attorney General's Office **had in their possession** documents from the VA stating that Garcia was **reprimanded** and told he **could not use** the federally funded workstudies to do his private Ward County work. The ND Attorney General's office lied in documents prepared and presented to the North Dakota Supreme Court that Garcia could, within the scope of his employment, legally use the workstudies to do work that was not VA related. They deliberately lied on legal documents about this matter. They violated state law prohibiting the North Dakota Attorney General's office from advising citizens on **private concerns**.

The Attorney General's office also **illegally defended** Garcia's actions that created a hostile work environment for me and forced me to do free work for Garcia against my will under threat of retaliation. Garcia intimidated and threatened me with retaliation if I did not help do Ward County work that benefited him even though I had clearly stated to him and to numerous other individuals that I did not want to do any Ward County work in violation of my federal contract. He threatened and intimidated me with retaliation if I did not keep silent about the fact that he had numerous confidential Ward County documents on his developmentally disabled clients relating to their personal and financial affairs in an open file cabinet where numerous unauthorized individuals, including me, had unlimited access to the records on a daily basis. He told me that he would not renew my contract to work if I did not keep silent and help him. The Attorney General's office clearly knew and understood that Garcia benefited from work that was extorted

from me. The Attorney General's office clearly knew and understood the VA ordered Garcia to stop using the workstudies for Ward County work. The Attorney General's office "claimed" Garcia could legally, within the scope of his employment, use me against my will to do free work because, in the Attorney General's opinion, the work I was forced to do was "minimal." I believe that the flag of the United States of America flies over the flag of North Dakota. As long as the flag of the United States of America is flying over the flag of North Dakota, North Dakota Attorney General Heitkamp has no legal authority to make it lawful for Garcia or anyone to use me or other free citizens of this country against our will for any amount of work, "minimal" or otherwise. If any North Dakota Governor, Senator, Representative, Supreme Court Justice, Judge or any other public official cannot understand this concept, then that public official has no business serving in public office. I did not want to do free Ward County work for Ronald L. Garcia in violation of my federal contract. By illegally defending Garcia's actions in this matter as "lawful" both North Dakota Attorney General Heitkamp and Assistant Attorney General Tag Anderson have used their official public positions to grievously violate my rights and equal status as a citizen and the laws of North Dakota and the United States of America. For this matter alone, both Heitkamp and Anderson should be investigated for criminal actions and lose their license to practice law in the state of North Dakota. Any unlawful attempt to "legalize" the use of free citizens to do work for another person is so immoral, unethical and unconscionable that any rational government agency or official aware of such actions must take steps to thoroughly investigate those actions.

The North Dakota Attorney General's office would like you and the citizens of this state to believe that their office, along with Mr. Allyn Kostecki, have the legal authority to determine that Garcia could lawfully use me in violation of my federal contract against my will. I do not have any documentation concerning any statements by Mr. Kostecki. However, Mr. Kostecki does not have any legal authority to determine Garcia could use the federally funded workstudies in violation of their contract. Both the Attorney General's office and Mr. Kostecki are aware only the Department of Veteran's Affairs has the legal authority to determine how the workstudies will be used. They cannot make it lawful for Garcia to use the federally funded workstudies to do Ward County Work when the authority to do so does not belong to them. More importantly, **NO NORTH DAKOTA PUBLIC OFFICIAL HAS THE LEGAL AUTHORITY TO LEGALIZE ANY FORM OF FORCED LABOR FROM A FREE CITIZEN.** The Attorney General's office has deliberately lied to the entire North Dakota Legislative Branch to cover up their wrongful actions.

The North Dakota Attorney General's office did not have the legal authority to request summary judgement on behalf of Garcia and Stageberg for their private actions. Garcia and Stageberg never requested summary judgement for their private actions. In my opinion, the Attorney General's office believes the entire North Dakota Legislative Branch is either too ignorant to figure out they are being lied to or that the entire North Dakota Legislative Branch will simply look the other way and allow the Attorney General's office to use their power and prestige to violate laws that are the very foundation of this country's greatness.

Garcia also illegally filed a false police report accusing me of the felony he committed himself after I reported his actions violating the rights of the developmentally disabled persons under his guardianship to Mr. Dave Boner of Protection and Advocacy. I am certain you and every other member of the Legislative Branch is aware that it is against North Dakota law to take any civil or criminal action against me or any other person reporting to Protection and Advocacy. Garcia lied in the police report. He used the police report as a weapon to intimidate and harass me into silence to cover up his own illegal actions. Garcia wanted to put me in prison for the criminal actions he knew he committed himself. I believe you and every citizen in the United States of America will agree that with me when I say that it is clearly impossible for Garcia to have been acting within the scope of his employment when he filed the police report because it was an illegal action. The North Dakota Attorney General's office lied in legal documents and

lied to you. I would also like to point out that Allyn Kostecki, an employee of TRIO programs under the North Dakota State University system has no legal authority over Ronald Garcia's Ward County Public Administrator position. Any opinion Mr. Kostecki has concerning Garcia's Ward County Public Administrator position is completely irrelevant since he is not the proper authority to make the determination. Only Ward County officials have that authority. The Attorney General's office has never provided any documentation from any Ward County public official giving Ronald Garcia permission to file a false police report against me. I do not have any documents in my possession on this either. However, I am certain, if any Ward County public official did give Garcia permission to file the false police report, that Ward County public official would want to act honorably and come forward. The Attorney General's office clearly knew Mr. Kostecki was not the proper authority to comment on any of Garcia's Ward County Public Administrator duties. Again, the Attorney General's office lied in legal public documents and to the entire North Dakota Legislative branch.

The North Dakota Attorney General's office also had information that Truman Stageberg, Ronald Garcia's immediate supervisor, helped to cover up Garcia's actions against me. While Stageberg may not have originally given Garcia permission to use me or the workstudies to do free work for Garcia, Stageberg still failed to protect me from retaliation and helped Garcia to cover up the wrongful use of the workstudies and the wrongful use of Minot State University property by Garcia to conduct NSF check seminars for Ward County under the guise of using the facilities for the Veterans ReEntry Program. All of Stageberg's actions were not within the scope of his employment as a North Dakota public official. He was not entitled to have his private actions against me defended with North Dakota taxpayer dollars.

North Dakota Attorney General Heitkamp and Assistant Attorney General Anderson would not have been able to get away with their illegal actions and misuse of taxpayers dollars if the North Dakota Supreme Court had not deliberately schemed to cover up their actions. The entire North Dakota Supreme Court had knowledge that Garcia had been reprimanded by the Department of Veterans Affairs and that Garcia had falsely accused me of a felony in violation of state law. The entire North Dakota Supreme Court had information that Garcia and Stageberg had never filed any answer to my original complaint concerning their private actions against me within the required twenty days of their receipt of my complaint. They also had information that the North Dakota Attorney General's office failed to file any answer to my complaint within the required twenty days. I actually won the right to bring my suit before a jury without interference of a summary judgment by default. However, the Attorney General's office illegally interfered with my right and obtained a summary judgment for Garcia's and Stageberg's private actions at taxpayers' expense. The North Dakota Supreme Court, with full knowledge that the Attorney General's office had acted illegally and in bad faith, upheld the summary judgment. Of course, if the North Dakota Supreme Court had not upheld the summary judgment, this entire matter would have become public. The ND Supreme Court knowingly covered up violations of my rights and North Dakota laws. They acted in bad faith to prevent me from exercising my right to address my grievances concerning Garcia's and Stageberg's actions as private citizens in a court of law before a jury without illegal interference of the state.

These public officials' actions are a dangerous threat to the rights of every single citizen in this state. I have provided more information at my website: www.geocities.com/ellisonl.geo/intro.html. I intend to use every available avenue to bring this matter to the attention of every North Dakota citizen. They need to know now before the November elections. Additionally, many North Dakota citizens are contributing money or other resources to some of these public officials' campaigns. How many of these citizens would continue to support candidates such as Attorney General Heitkamp when this information becomes public? North Dakota citizens have a right to protect themselves from corrupt government officials by either recalling them from office or by voting them out of office. I intend to ensure they have access to information on corruption and conspiracy in this state concerning the cover-up of the illegal actions of Attorney General Heitkamp, Assistant Attorney General Tag Anderson, the North Dakota

Supreme Court, and Ronald L. Garcia. I will not be silent.

I am sending copies to public officials at the state, county, and city level because I have included numerous public officials' names on my website. Please, you must not ignore this letter. You have an obligation to every citizen in this state to ensure they are protected from unconscionable actions of public officials. Please find out all the information concerning this case for yourself. Please ensure every word that I am saying in this letter and on my website concerning this matter is thoroughly investigated.

Sincerely,

Deborah A Earnest

Deborah A Earnest
Disabled American Veteran

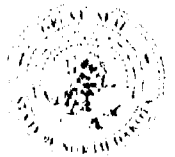
CC: The Honorable Edward T. Schafer
 Mr. John Hoeven
 Judge Everett Nels Olson
 Judge Glenn Dill
 Dr. Gary Narum
 Mr. Allyn Kostecki
 Mr. Dave Boner
 Ward County Commissioner Luverne Link
 Minot Mayor Carroll W. Erickson
 Minot Police Chief Dan Draovitch
 Mr. Dave Senger
 Mr. Nevin Van de Streek
 Minot Alderman Stephan Podrygula, PhD.
 Det. Boyde Galgerud
 Sgt. Doug Lockrem
 Mr. Ken Crites, Minot Daily News
 Mr. Jim Olson, KXMC TV
 Ms. Rae Schobinger, KMOT TV



Senator Darlene Watne
District 5
520 28th Avenue SW
Minot, ND 58701-7065

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES
Judiciary
Vice Chairman
Political Subdivisions

Mr. Chairman, Members of the House Judiciary Committee:

If you are an incumbent Legislator, you may remember a e-mail or letter from a woman named Deborah Earnest. She blew the whistle on her employer while she was a student at Minot State University and working for the Veteran's Administration on a study program. Her employer was having her work for other entities, such as Public Administrator duties with private information in the files and billing her time to the Veteran's Administration. When she blew the whistle, he was asked to discontinue the practice, which he did, and it has been a contentious situation between them ever since. Deborah has appealed her case as far as she can go, even to the Supreme Court, but she cannot let go of what she feels has been an injustice to her.

I have had a couple of attorneys go over her file and both of them feel she was probably not adequately legally represented from the beginning. She has not, however, filed charges through the North Dakota Bar Association. That is her decision, her frame of mind.

Attached to this testimony is a copy of the letter Deborah sent to other legislators. It carries some very serious allegations. It is a synopsis of the background of her case in her own words.

When I first visited with Deborah, found out about her contentions, and started getting into her allegations, I realized there was absolutely nothing I could see to do to help her with her particular situation. It seemed her remedies by law had been exhausted. From my observations of Deborah, I feel this situation has deeply affected her life and she just cannot let go of the matter. She feels very "wronged."

Finally I asked Deborah how I could help her, what would help her feel better about our laws to perhaps prevent this from happening to others. She said that was her main goal: **Don't let this happen to others.**

I went to Jennifer Clark at Legislative Council and asked her to review our "Whistle Blower Laws." Jennifer's review of Deborah's problem gave her the impression that the problem might be helped by strengthening our Whistle Blower Laws. I hope this bill will help with situations like Deborah's.

As I said, Senate Bill 2226 is a bill to strengthen our Whistle Blower Laws. This bill does three things:

1. Our laws now pertain only to state or federal employment retaliation. This bill extends the law to include local laws, ordinances, or regulations. This is on Page 1, Lines 12,

13, and 18. Also Page 3, Lines 1 and 2.

2. This bill also extends the time from 90 to 300 days for a person to seek relief or damages. An aggrieved party needs time to gather evidence, seek legal advice, find out where to go for help. Why limit that time to 90 days if they need more time? For instance, if your first attorney doesn't work out, as happened to Deborah, it takes awhile to find another one. Attorneys, I'm sure, are reluctant to take on a business or government entity when an aggrieved party is not wealthy. Since this bill passed the Senate a member of the Attorney General's office approached me indicated perhaps 300 days is too long, so this may be a proposed amendment that comes before you.

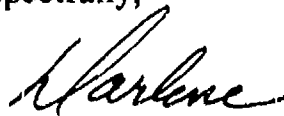
3. And, I believe, the most important part of this bill is one simple little word on Page 2, Line 17 which changes a "may" to "shall." These matters are a part of the Department of Labor and that Department certainly should not be able to turn down a case of such importance. Every complaint deserves consideration and state investigation, if needed. And, remember, after seeking help from the Department of Labor, an aggrieved person could still seek remedy through the courts.

So, that is an outline of what Senate Bill 2226 does. I hope you will agree with me that, whether Deborah's contentions are justified or not, and I believe they are, our Whistle Blower Laws can be strengthened through the three changes outlined.

Deborah is here today to share her story.

I urge a DO PASS recommendation on SB 2226.

Respectfully,



Darlene Watne
Senator, Fifth District