

Introduced by

Senator Holmberg

1 A BILL for an Act to amend and reenact section 34-11.1-04 of the North Dakota Century Code,
2 relating to whistleblower protection for public employees; and to provide for a legislative council
3 study.

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

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

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

9 1. An employee may, without fear of reprisal, report in writing to the employee's
10 respective agency head, a state's attorney, the attorney general, or an employee
11 organization the existence of:

12 a. A job-related violation of local, state, or federal law, rule, regulation, or
13 ordinance.

14 b. The job-related misuse of public resources.

15 2. For having made a report under subsection 1, no employee will:

16 a. Be dismissed from employment.

17 b. Have salary increases or employment-related benefits withheld.

18 c. Be transferred or reassigned.

19 d. Be denied a promotion that the employee otherwise would have received.

20 e. Be demoted.

21 f. Be discriminated against in any term or condition of employment.

22 3. An employee who intentionally furnishes false information is subject to disciplinary
23 action, including suspension or dismissal as determined by the employee's
24 appointing authority or designee. An employee ~~dismissed under this subsection~~

1 claiming reprisal under this section may appeal first to the ~~state personnel board~~
2 human resource management services division and then to the district court in the
3 manner prescribed by chapter 28-32, or to other appropriate offices and then to
4 district court if the employee is not under the jurisdiction of the ~~state personnel~~
5 ~~board~~ human resource management services division.

6 4. The labor department shall receive complaints of violations of this section and may
7 attempt to obtain voluntary compliance with this section through informal advice,
8 negotiation, or conciliation. To receive assistance from the labor department, a
9 person claiming to be aggrieved by a violation of this section shall file a complaint
10 with the department within three hundred days after the alleged act of wrongdoing.
11 An employee is not prohibited from filing, or required to file, a complaint with the
12 labor department under this subsection before proceeding under other provisions
13 of this section.

14 5. An employee of the state may appeal a claim of reprisal under this section in the
15 manner prescribed for a classified employee under chapter 54-44.3. This
16 subsection does not apply to an employee under the jurisdiction of the state board
17 of higher education or the judicial branch of government.

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