

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2368

2001 SENATE JUDICIARY

SB 2368

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2368

Senate Judiciary Committee

Conference Committee

Hearing Date 19 February 2001

Tape Number	Side A	Side B	Meter #
1	x	x	0-end/0-7.5
Tape 1 20 Feb. 2001		x	8.9-22
Committee Clerk Signature			

Minutes: **Senator Traynor**, opened the hearing on SB 2368: A BILL FOR AN ACT TO PROVIDE FOR A PEACE OFFICERS' BILL OF RIGHTS; AND TO PROVIDE A PENALTY.

**Senator Watne**, representing district 5. (testimony attached)

**Representative Mahoney**, representing district 33. In real life I have been a city attorney and a state attorney. Since signing the bill there has been a lot of turmoil. I know from experience that law enforcement has a tough job. Every case is unique. Law officers need protection. They deserve equal treatment of rights across the state.

**Senator Lyson**, do you feel law officers should have more rights than a normal citizen?

**Representative Mahoney**, I don't know what you consider a normal citizen. There are different social structures such as union rights groups.

**Senator Lyson**, what I mean to say is, do law officers have less rights?

**Representative Mahoney**, I don't believe it is equal across the state.

**Senator Traynor**, did this bill come from grievances?

**Representative Mahoney**, there was a lack of uniformity in the state.

**Chad Hagen**, State President of the ND Fraternal Order of Police, supports SB 2368. (testimony attached) Also presented is Jason Dvorak's testimony of the Grand Forks Police Department.

**Senator Lyson**, has your local federation of police organization asked for any support from the ND police chiefs or sheriffs organization.

**Chad Hagen**, we haven't spoken to any of those organizations directly, basically we put it out to our members for feedback and didn't any.

**Senator Lyson**, can you give us any other cases that could give us reason to pass this bill. Cases where police officers were segregated against.

**Chad Hagen**, we had a case where an officers' financial records were disclosed during an internal investigation. We have also had cases throughout the state where an officer wasn't given the same rights as officers would be in larger cities. This bill helps smaller organizations.

**Senator Lyson**, income is public information.

**Chad Hagen**, we don't feel that administrators should just give out this information, a request should be made.

**Senator Lyson**, that's not what it says here. This says you can't give out information. My next question is, don't you think that peace officers enjoy our current bill of rights?

**Chad Hagen**, no I don't.

**Senator Lyson**, do you think there is recourse if it is not available.

**Chad Hagen**, yes there are. But they are afraid of losing their jobs.

**Senator Lyson**, is it true that the National Federation of Police has unsuccessfully for several years tried to get this passed to the Supreme Court?

**Chad Hagen**, this bill has never come before the US Congress or the Senate. Not to my knowledge.

**Senator Trenbeath**, this bill is anything but simple. Are you sure your clear on fine line between criminal rights and administrative privileges.

**Chad Hagen**, there is an area that is confusing. I'm not a supreme court expert. We are trying to get that clear in this bill.

**Senator Trenbeath**, your main emphasis is with respect to the criminal?

**Chad Hagen**, That is what this bill is dealing with mostly.

**Senator Dever**, this bill is important. Are there sections that have a higher priority.

**Chad Hagen**, yes there are.

**Senator Trenbeath**, in section three of the bill, subsection five: "No promise of reward may be made as an inducement to answering a question." The very practices you use on a daily basis, you will not allow others to use on you. Don't you on investigations promise rewards?

**Chad Hagen**, yes.

**Senator Trenbeath**, so your saying if their is an incidence of rotten cops. Who were profiting from their jobs, to inducing them to turn on the rest. Do you think that is fair?

**Chad Hagen**, no, I don't think that is fair.

**Senator Trenbeath**, so public interest takes second place.

**Senator Lyson**, how many members do you have?

**Chad Hagen**, I don't have that information.

**Senator Bercler**, which sections are important to this bill?

**Chad Hagen**, 7, 8.

**Senator Traynor**, it would seem the public agency have any varieties of retaliation, I don't know if you want that language there.

**Paul Hendrickson**, Sheriff of Cooperstown and Griggs county, would like to kill the bill. Good content, however, it needs to be worked on before in the law community. It must be dealt with in the law enforcement community instead of a lone wolf approach.

**Senator Traynor**, are you suggesting a study resolution?

**Paul Hendrickson**, no, but it needs to be resolved within the law enforcement community. We need to work together instead of as opposing forces.

**Senator Dever**, are there sections you could live with?

**Paul Hendrickson**, there are many aspects to where they speak on small agencies. If there is a need for a state board that needs to look at person interests then we would certainly look at that. There is a lot of lacking definitions in here, what is an interrogation. Senator Trenbeath had a fantastic question as far as where is the line between criminal and civil administratively. Most of these laws are already in place.

**Senator Dever**, is there a form of this bill that could serve has a basis for your groups to get together, or is that necessary?

**Paul Hendrickson**, I don't believe it is necessary. However, there is a lot of good content in the bill. But none of us have been contacted.

**Darel Vance**, Chief of Police for Watford City and President ND Chief of Police Association. Reads testimony from LeRoy McCann

**Senator Trenbeath**, I know LeRoy very well.

**Senator Nelson**, is there a willingness for you to sit down with these people?

**Darel Vance**, yes.

**Senator Nelson**, we want something to get done.

**Keith Tornes**, Deputy Chief of Fargo, believes bill needs to be revamped. Opposed to bill.

This bill would be detrimental to administrative process.

**Senator Trenbeath**, you don't think an officer should be given a say as to the release of his picture on the web?

**Keith Tornes**, no.

**Bill Broer**, retired law officer, doesn't believe the bill is necessary. Opposed to the bill.

**Senator Traynor**, closed the hearing on SB 2368.

**SENATOR WATNE MOTIONED TO AMEND THE BILL, SECONDED BY SENATOR DEVER. VOTE INDICATED 2 YEAS, 4 NAYS AND 1 ABSENT AND NOT VOTING.**

**SENATOR LYSON MOTIONED TO DO NOT PASS, SECONDED BERCIER. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR LYSON VOLUNTEERED TO CARRY THE BILL.**

Date: 2/20/01  
 Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2368

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Move Amendment 101

Motion Made By Watne Seconded By Dever

Senators	Yes	No	Senators	Yes	No
TJ		X	B		X
W	X		N		
D	X				
L		X			
Tr		X			

Total (Yes) 2 No 4

Absent 1

Floor Assignment \_\_\_\_\_

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



Date: 2/20/01  
 Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2368

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Lyson Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Ty	X		B	X	
W	X		N		
D	X				
L	X				
JF	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Lyson

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

**REPORT OF STANDING COMMITTEE (410)**  
February 20, 2001 6:14 p.m.

**Module No: SR-31-4105**  
**Carrier: Lyson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2368: Judiciary Committee (Sen. Traynor, Chairman) recommends DO NOT PASS**  
(6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2368 was placed on the  
Eleventh order on the calendar.

2001 TESTIMONY

SB 2368

**Speech before Senate Judiciary Committee**

**February 19, 2001**

**9:00 AM**

**Chad Hagen, NCLEO** 

**President, ND Fraternal Order of Police**

**PEACE OFFICERS' BILL OF RIGHTS**

**SB 2378**

Good morning Mr. Chairman and members of the Judiciary Committee. My name is Chad Hagen, and I am the State President of the ND Fraternal Order of Police. We are an organization of over 500 members in ND, and 300,000 members throughout the United States. We are the largest professional police organization in the United States, and the only progressive police organization in this state that actively fights for law enforcement in all fields and of all ranks.

I am here today to express our organizations support of SB 2368, the peace officers' bill of rights. I urge this committee to take action today to pass this item, and send it to the Senate floor.

Our organization would like to thank Senator Watne and Dever for supporting this legislation. We realize that this bill has driven some controversy in the law enforcement field. The reason for this is simple. ND is starting to come out of the dark ages in this area, and it has a lot of people scared. Scared for the future. I am here today to tell this committee that the future of law enforcement in ND is looking up, and the passage of this bill is a step in the right direction. We need to ensure that officers are not apprehensive about doing the right thing over fear that they may be punished or reprimed against. This is where the bill of rights comes into play. A perception that the rights of law enforcement officers are not always observed, in the internal investigations process, has led to the adoption of procedural protections. These protections are commonly known as a bill of rights.

Comprehensive bills of rights exist in numerous states, such as Florida, Illinois, Louisiana, Nevada, California, and Wisconsin. In more than half of the states, bills of rights are included in collective bargaining agreements between employers and employees of government organizations.

I think we can all agree that effective law enforcement depends upon the maintenance of stable employer-employee relations. In order to insure that these relations are continued throughout the state, and to further assure that effective services are provided to all people in ND, it is necessary that this bill apply to all law enforcement officers. This is the era of lawsuits, civil rights claims, and increased tensions between the public and police. As we work in this field, we have enough to worry about, and don't need the added stress of wondering how every call we go on will be interpreted by the public, and the administration alike. This bill will lay out specifications on what the employer and employee expect when it comes to interrogations, interviews, personnel files, photographs, and financial data. Why should either party have to be surprised by what the course of action will be when a complaint against an officer is received. This bill does nothing more than to lay out due process rights for officers.....the same due process as you, citizens of this state, would expect if you were being questioned by the police. In the words of a federal court, a law enforcement officers' bill of rights is designed to protect officers from any impairment of their rights when their conduct is questioned.

One thing that I believe needs to be clarified is that this will not protect the officer that deserves disciplinary action. This bill merely lays out the course that needs to be followed for every occurrence in which disciplinary action may need to be handed down. This bill is fair, it is simple, and it is the correct way to treat employees of a professional, progressive law enforcement agency.

Another clarification that needs to be made is that this bill will cost agencies absolutely no funding to implement. The only possible way an agency may lose with this bill, is if the administrators violate these provisions. There should be absolutely no reason why this should happen, as these practices should be simple enough to follow.

I will briefly cover each section of this bill and give a few short examples of why these are needed in North Dakota. I have provided for each member of this committee a brief synopsis sheet that covers each section of this bill.

**Section 1** of this bill covers definitions

**Section 2** covers political activity. This section merely addresses the fact that no officer may be prohibited from engaging in political activity, unless

