

SENATE BILL NO. 2078

Introduced by

Government and Veterans Affairs Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to amend and reenact subsection 1 of section 44-08-04, subsection 1 of
2 section 44-08-04.2, and sections 44-08-04.5, 44-08-05.1, and 54-06-06 of the North Dakota
3 Century Code, relating to expense account payments, travel advances, direct payment of
4 lodging expenses, payment approval requirements, and periodic salary payments for state
5 employees; and to repeal sections 44-08-08 and 54-06-16 of the North Dakota Century Code,
6 relating to per diem oath and penalty and minimum wage for state employees.

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

8 **SECTION 1. AMENDMENT.** Subsection 1 of section 44-08-04 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 1. Except as provided in section 44-08-04.1, each elective or appointive officer,
11 employee, representative, or agent of this state, or of any of its subdivisions,
12 agencies, bureaus, boards, or commissions, may make claim for meals and
13 lodging while engaged in the discharge of a public duty away from the claimant's
14 normal working and living residence for all or any part of any quarter of a day.
15 Claims may also be made for meals that are included as part of a registration fee
16 for a conference, seminar, or other meeting and for meals attended at the request
17 of and on behalf of the state or any of its subdivisions, agencies, bureaus, boards,
18 or commissions; however, if a meal is included in a registration fee, the applicable
19 quarter allowance cannot be claimed for that meal. Claims for meals specifically
20 included in a registration fee for a conference, seminar, or other meeting must be
21 allowed even if the city at which the conference, seminar, or meeting is held or the
22 meal is provided is the claimant's normal working and living residence.
23 Reimbursement is allowed only for overnight travel or other travel, away from the
24 normal place of employment, for four hours or more. To claim expenses for the

1 second and third quarters, the travel must have begun at least one hour before the
2 start of the quarter being claimed and must have extended at least one hour into
3 the quarter being claimed. Verification of expenses by receipt is required only for
4 lodging expenses.

5 **SECTION 2. AMENDMENT.** Subsection 1 of section 44-08-04.2 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 1. Any state agency shall advance at the request of the agency head for employees
8 of that agency funds to be used for payment of meal and lodging expenses
9 incurred while the official or employee is traveling on official business of this state,
10 provided that such travel must be planned to be in excess of five days per month,
11 whether or not consecutive, and provided that the funds advanced do not exceed
12 eighty percent of estimated expenses for the period. Travel ~~advance~~
13 ~~warrant checks~~ advances must be ~~issued on vouchers signed~~ approved by the
14 chief executive officer or a designee of the agency involved. Funds advanced for
15 meals and lodging under this section must be accounted for as required under
16 section 44-08-04 for travel.

17 **SECTION 3. AMENDMENT.** Section 44-08-04.5 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **44-08-04.5. Prepayment and direct billing of ~~out-of-state~~ lodging expenses of**
20 **state officers and employees.**

- 21 1. The office of management and budget shall seek to obtain sales tax exemptions for
22 state employee travel lodging expense from all other states and the District of
23 Columbia. If available from other states, the office of management and budget
24 shall file exemption records, documents, or numbers for use by state agencies.
25 Whenever any state agency, board, bureau, or institution makes out-of-state travel
26 plans involving a lodging expense, the agency may contact the office of
27 management and budget to determine if a sales tax exemption has been obtained
28 from the destination state or states. If an exemption has been obtained, and if
29 travel plans are sufficiently certain, the agency, board, bureau, or institution may
30 obtain the required documentation from the office of management and budget and
31 arrange with the out-of-state lodging provider to have the agency prepay the

lodging expense or to have the lodging expense directly billed to the agency and obtain the benefit of the sales tax exemption.

2. If a state agency, board, bureau, or institution makes ~~out-of-state~~ travel plans involving a lodging expense ~~when the lodging expense may be obtained at a reduced cost because it is part of a combination of travel related expenses purchased together~~, the agency, board, bureau, or institution may arrange with the lodging provider or travel agency to have the lodging expense prepaid by the agency or billed directly to the agency.

SECTION 4. AMENDMENT. Section 44-08-05.1 of the North Dakota Century Code is amended and reenacted as follows:

44-08-05.1. ~~Vouchers~~ Payments - Requirements for approval - Penalty - Action for violations. Any public officer or employee who has the power to approve a ~~voucher~~ payment for a department, agency, or institution for travel expenses or any other state expenditure of public funds shall determine before approving ~~such voucher~~ the payment the following:

1. That the expenditure for travel or other expenditures were for lawful and official purposes.
2. If for ~~travel expense~~ employee travel reimbursement, that the travel actually occurred, and that the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment.
3. If the ~~voucher~~ payment is for expenditure other than travel expense, that the expenditure is lawful and that the ~~voucher~~ payment contains no false claims.

For purchases made with the use of a purchasing card authorized under subsection 8 of section 54-44.4-02, an employee of the office of management and budget designated by the director of the office of management and budget, on behalf of all agencies, may review and approve ~~vouchers~~ payments under this section and make payments pursuant thereto. Any public officer or employee who willfully approves a ~~voucher~~ payment with knowledge it contains false or unlawful claims or that it does not otherwise meet the requirements of this section for approval is guilty of theft and punishable under the provisions of chapter 12.1-23. Any public officer or employee who, without the use of ordinary care and diligence, negligently approves a ~~voucher~~ payment for a department, agency, or institution containing false or unlawful claims or which does not otherwise meet the requirements of this section for approval is personally liable for

1 any funds improperly expended. The director of the office of management and budget,
2 members of the office of the budget, state auditor, or any other person who has knowledge of
3 an actual or possible violation of this section shall make such information known to the attorney
4 general. The attorney general shall investigate any alleged violations and, if a violation appears
5 to exist, shall criminally prosecute under chapter 12.1-23 or bring a civil suit for the recovery of
6 such funds as may actually have been improperly paid against the payee and officer or
7 employee who approved ~~such voucher~~ the payment in violation of any of the above
8 requirements or shall bring both such criminal action and civil suit. The officer or employee who
9 approves any ~~voucher~~ payment negligently has the right of subrogation against the payee of
10 ~~such voucher~~ the payment in the event public funds have been improperly paid to the payee.

11 **SECTION 5. AMENDMENT.** Section 54-06-06 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **54-06-06. Salaries of state officers ~~payable monthly~~ and employees - Periodic**
14 **payment.** Unless otherwise provided by law, the office of management and budget ~~is directed~~
15 ~~to shall~~ prepare, ~~and state auditor to sign,~~ warrants for the salaries of ~~the various~~ state officers
16 and employees not less frequently than monthly as the same become due.

17 **SECTION 6. REPEAL.** Sections 44-08-08 and 54-06-16 of the North Dakota Century
18 Code are repealed.