

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2093

Introduced by

Government and Veterans Affairs Committee

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

1 A BILL for an Act to create and enact a new section to chapter 11-10 of the North Dakota
2 Century Code, relating to authorizing counties to enter purchasing card agreements; to amend
3 and reenact section 11-10-16, subsection 2 of section 44-08-04, sections 44-08-04.4 and
4 44-08-05.1, and subsection 4 of section 54-44.4-11 of the North Dakota Century Code, relating
5 to payment of travel expenses of state and county officers and employees and purchasing card
6 expenditures; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 11-10-16 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **11-10-16. Statement to claim mileage.** ~~Before~~ Unless the expense was incurred by
11 the use of a purchasing card, before an allowance for mileage or travel expense may be paid
12 by a county, the ~~person~~ individual for whose travel the claim is made shall file with the county
13 auditor an itemized statement verified by affidavit showing the number of miles traveled, the
14 mode of travel, the days of traveling, the purpose of the travel, and the destination. Before a
15 claim for mileage is allowed or paid, the claimant shall file the statement and affidavit with the
16 board of county commissioners which shall decide whether to allow the claim.

17 **SECTION 2.** A new section to chapter 11-10 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Purchasing card authority - Penalty.**

- 20 1. A board of county commissioners may approve entering a purchasing card
21 agreement, including participation in a cooperative purchasing contract established
22 by the office of management and budget.
23 2. A public officer or employee who willfully uses or approves any purchase with a
24 purchasing card which is false or unlawful or otherwise does not comply with any

1 requirement in the contractual agreement is guilty of theft and punishable under
2 chapter 12.1-23.

3 3. A public officer or employee who willfully uses or approves a payment with a
4 purchasing card which is false or unlawful or not authorized is personally liable for
5 any funds improperly expended.

6 4. The manager of a purchasing card system or any other individual who has
7 knowledge of an actual or possible violation of this section shall make the
8 information known to the attorney general or the appropriate state's attorney.
9 Upon receipt of a report of an alleged violation, the attorney general or state's
10 attorney shall investigate the alleged violation and, if a violation appears to exist,
11 prosecute the offender or bring a civil suit for the recovery of the funds that may
12 have been improperly paid against the payee and the individual who approved the
13 payment.

14 5. An officer or employee who approves any payment negligently has the right of
15 subrogation against the payee of the payment if public funds have been improperly
16 paid to the payee.

17 **SECTION 3. AMENDMENT.** Subsection 2 of section 44-08-04 of the North Dakota
18 Century Code is amended and reenacted as follows:

- 19 2. ~~Expenses for~~ For travel within the state ~~must be reimbursed at~~, the following rates
20 for each quarter of any twenty-four-hour period must be used:
- 21 a. First quarter is from six a.m. to twelve noon and the sum must be five dollars.
22 First quarter reimbursement may not be made if travel began after seven a.m.
- 23 b. Second quarter is from twelve noon to six p.m. and the sum must be seven
24 dollars and fifty cents.
- 25 c. Third quarter is from six p.m. to twelve midnight and the sum must be twelve
26 dollars and fifty cents.
- 27 d. Fourth quarter is from twelve midnight to six a.m. and the sum must be the
28 actual lodging expenses not to exceed fifty dollars plus any additional
29 applicable state or local taxes. A political subdivision may reimburse an
30 elective or appointive officer, employee, representative, or agent for actual
31 lodging expenses.

1 **SECTION 4. AMENDMENT.** Section 44-08-04.4 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **44-08-04.4. Prepayment of travel expenses of state officers and employees.** Any
4 travel expense, including airline tickets and registration fees, that must be incurred more than
5 five weeks in advance of approved travel ~~of to meet necessary deadlines or to obtain low rates,~~
6 ~~may be purchased by the state or any elected or appointed officer, employee, representative,~~
7 ~~or agent of this state to meet necessary deadlines or to obtain low rates must be purchased~~
8 ~~prepaid by the state.~~ No state entity may require an officer, employee, representative, or agent
9 of the state to pay these expenses.

10 **SECTION 5. AMENDMENT.** Section 44-08-05.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **44-08-05.1. Payments - Requirements for approval - Penalty - Action for**
13 **violations.** Any public officer or employee who has the power to approve a payment for a
14 department, agency, or institution for travel expenses or any other state expenditure of public
15 funds shall determine before approving the payment:

16 1. That the expenditure for travel or other expenditures were for lawful and official
17 purposes.

18 2. If for employee travel reimbursement, ~~that the travel actually occurred and that the~~
19 sums claimed for travel expenses are actually due the individual who is seeking
20 reimbursement, allowance, or payment.

21 3. If the payment is for expenditure other than travel expense, that the expenditure is
22 lawful and that the payment contains no false claims.

23 For purchases made with the use of a purchasing card ~~authorized under section 54-44.4-11,~~ an
24 employee of the office of management and budget designated by the director of the office of
25 management and budget, on behalf of all agencies, may review and approve payments under
26 this section and make payments pursuant thereto. Any public officer or employee who willfully
27 approves a payment with knowledge it contains false or unlawful claims or that it does not
28 otherwise meet the requirements of this section for approval is guilty of theft and punishable
29 under chapter 12.1-23. Any public officer or employee who, without the use of ordinary care
30 and diligence, negligently approves a payment for a department, agency, or institution
31 containing false or unlawful claims or which does not otherwise meet the requirements of this

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

11 **SECTION 6. AMENDMENT.** Subsection 4 of section 54-44.4-11 of the North Dakota
12 Century Code is amended and reenacted as follows:

- 13 4. The director of the office of management and budget may establish and
14 administer, including by contract with a provider, a system of procurement for
15 commodities agencies are authorized to purchase under this section. If the
16 director ~~establishes~~ uses a purchasing card system under this subsection, the
17 director may designate which agencies are required to use the purchasing card
18 system for purchasing commodities under this section.