

OFFICES AND OFFICERS

CHAPTER 304

H. B. No. 531

(Christensen, Poling)

(Recommended by Legislative Audit and Fiscal Review Committee)

EXPENSE AND OTHER CLAIMS AGAINST STATE OR POLITICAL SUBDIVISION

AN ACT

To create and enact sections 44-08-05.1 and 54-14-07 of the North Dakota Century Code, relating to the approval of vouchers for the expenditure of public funds and the penalty for violation thereof, and to the promulgation of rules by the state auditing board; to amend and reenact sections 44-08-03, 44-08-04, 44-08-05, 54-06-09, 54-14-03, and 54-14-04 of the North Dakota Century Code, relating to the claiming, paying, and receiving of travel expenditures and the violation thereof, and to repeal section 54-14-05 of the North Dakota Century Code, relating to printing on vouchers penalty for false certification.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 44-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-03. Traveling Expenses—What Allowed.) No elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, shall willfully make claim upon, or willfully receive, any public funds for traveling expenses, while engaged upon public business, in an amount in excess of that allowed by law for such travel. Where more than one public officer, employee, representative, or agent shall travel in the same car while engaged upon official duty, whether belonging to different departments, subdivisions, boards, or commissions or not, no claim shall be made for more than one mileage, such claim to be made by the owner or lessee of such car.

§ 2. Amendment.) Section 44-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-04. Expense Account—Amount Allowed — Verification.) Each elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, may make claim and shall upon approval of such claim be paid as an allowance for meals and lodging while engaged within this state in the discharge of a public duty away from his normal working and living residence for all or any part of any quarter of a day at the following rates for each quarter of any twenty-four hour period:

1. First quarter shall be from six o'clock a.m. to twelve o'clock noon and the sum shall not exceed one dollar and twenty-five cents;
2. Second quarter shall be from twelve o'clock noon to six o'clock p.m. and the sum shall not exceed one dollar and fifty cents;
3. Third quarter shall be from six o'clock p.m. to twelve o'clock midnight and the sum shall not exceed two dollars and fifty cents;
4. Fourth quarter shall be from twelve o'clock midnight to six o'clock a.m. and the sum shall not exceed six dollars and seventy-five cents;
5. Provided, however, that the preceding four subsections shall not be applicable unless the person concerned has been out of the headquarters or normal place of employment for six hours or overnight.

Verifications of claims shall not be required for the first three quarters listed above and only a lodging receipt shall be required for the fourth quarter; provided, however, the amount paid for such lodging shall not be required to be listed.

Such persons engaged in travel without the state shall not claim a sum in excess of eight dollars a day for meals and in addition thereto actual lodging expenses. Verification by receipt for such out-of-state travel expense shall be required only for lodging expense claimed.

The head of any department, institution, or agency of this state may set a rate for such expenses less than those set forth in this section for any person or persons under his authority. Verification of any other type of expense not prescribed by this section shall be as prescribed by the state auditing board except no receipt shall be required for taxi or cab fares up to and including the sum of five dollars. The state auditing board shall disapprove any claim it shall de-

termine to be in error or unlawful or not within the limits of legislative appropriations. The travel expenses of the governor, lieutenant governor, judges of the supreme court, district courts, and county courts of increased jurisdiction, and members of the legislative assembly shall not be limited by the expense allowance limitations prescribed by this section.

§ 3. Amendment.) Section 44-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-05. Unlawful Expense and Traveling Account — Penalty—Civil Action.) Any person violating any of the provisions of sections 44-08-03 or 44-08-04 is guilty of a felony and shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment in a county jail for not less than ninety days nor more than one year, or by imprisonment in the penitentiary for not more than five years, or by both such fine and imprisonment. In addition to the criminal penalties herein imposed, any person subject to the provisions of sections 44-08-03 or 44-08-04 who receives public funds for the discharge of a public duty in excess of the amounts allowed by such sections shall, thirty days after a demand for a return of such excess amounts has been made by the attorney general, be subject to a civil suit to be brought by the attorney general for the recovery of the amount received in excess of that lawfully allowed.

§ 4.) Section 44-08-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

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

1. That the expenditure for travel or other expenditures were for lawful and official purposes;
2. If for travel expense, 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 is for expenditure other than travel expense, that the expenditure is lawful and that the voucher contains no false claims.

Any public officer or employee who willfully approves a voucher with knowledge it contains false or unlawful claims or that it does not otherwise meet the requirements of this section for approval, shall be guilty of a misappropriation of public funds and shall be subject to the penalty prescribed by section 12-10-02. Any public officer or employee who shall without the use of ordinary care and diligence negligently approve a voucher for a department, agency, or institution containing false or unlawful claims or which does not otherwise meet the requirements of this section for approval, shall be personally liable for any funds improperly expended. The director of the department of accounts and purchases, members of the state auditing board, state auditor, or any other person who has knowledge of an actual or possible violation of this section shall make such information known to the attorney general. The attorney general shall investigate any alleged violations and if a violation appears to exist he shall criminally prosecute under section 12-10-02 or bring a civil suit for the recovery of such funds as may actually have been improperly paid against the payee and officer or employee who approved such voucher in violation of any of the above requirements or shall bring both such criminal action or civil suit. The officer or employee who approves any voucher negligently shall have the right of subrogation against the payee of such voucher in the event public funds have been improperly paid to the payee.

§ 5. Amendment.) Section 54-06-09 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-09. Mileage and Travel Expense of State Officers and Employees.) State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, shall be allowed and paid for mileage and travel expense the following amounts:

1. The sum of eight and one-half cents per mile for each mile actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle or by private airplane except that if only one person shall engage in such travel in a motor vehicle or private airplane exceeding at any geographical point one hundred fifty miles beyond the borders of this state, reimbursement shall be limited to six and one-half cents per mile for the out-of-state portion of the travel. When any such motor vehicle or airplane is owned by the state or by any department or political subdivision

thereof, no allowance shall be made or paid for such mileage;

2. When travel is by rail or certified air taxi commercial operator or other common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.

Before any allowance for any such mileage or travel expenses shall be made, the official, deputy, assistant, clerk, or other employee shall file with the director of the department of accounts and purchases an itemized statement showing the mileage traveled, the days when and how traveled, the purpose thereof and such other information and documentation as may be prescribed by rule of the state auditing board or specifically requested by it, verified by his affidavit. The statement shall be submitted to the state auditing board for approval and shall be paid only when approved by said board.

§ 6. Amendment.) Section 54-14-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-03. Powers and Duties of State Auditing Board.)

The state auditing board shall audit all claims, accounts, bills, or demands against the state, except those of state-owned utilities, enterprises, and business projects, and such others as are specifically excepted by law. The state auditing board may delegate to the director of accounts and purchases authority to approve payments for payrolls, purchases, and such other items as in their discretion they deem feasible and desirable. Any person or department aggrieved by the disallowance of a claim by the director of accounts and purchases under the authority delegated herein may appeal such disallowance to the auditing board, which may reverse or affirm the action of the director of accounts and purchases.

§ 7. Amendment.) Section 54-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-04. Claim Against State Filed with State Auditing Board.) No bill, claim, account, or demand against the state shall be audited, allowed, or paid until a full itemized statement in writing has been filed with the state auditing board, unless such bill, claim, account, or demand is:

1. For a salary fixed by law;

2. Against a state owned utility, enterprise, or business project; or
3. Specifically exempt by law.

§ 8.) Section 54-14-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-14-07. Auditing Board Rules — Standard Vouchers — Disapproval of Claims.) In order to insure that sufficient information is provided to verify claims and determine the exact purpose of expenditures the state auditing board shall promulgate rules and regulations which they deem necessary for an adequate accounting and shall direct the preparation of standard forms or vouchers upon which claims against any public fund shall be submitted. The standard forms or vouchers shall be prepared in such a manner so as to require an enumeration and description of services performed, purposes of expenditures, types of items or services purchased, number of days of per diem payments, the capacity in which per diem is claimed, and any other information which is deemed necessary or desirable by the state auditing board. In the case of travel expenses the state auditing board shall specifically provide by rule or regulation for certification and a method whereby adequate verification of travel allowances or expenses can be provided, and to this end may direct individuals or departments to maintain adequate records which they may be called upon to produce for pre-audit or post-audit purposes in order to verify any information submitted upon travel vouchers or verify the correctness and lawfulness of the expenditures. The auditing board shall disapprove all vouchers or expenditures it determines to be in error or unlawful or exceeding the limits of legislative appropriation.

§ 9. Repeal.) Section 54-14-05 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1965.

CHAPTER 305

S. B. No. 308

(George, Lashkowitz)

UNIFORM FACSIMILE SIGNATURE ACT

AN ACT

To adopt the Uniform Facsimile Signatures of Public Officials Act; providing for the use of facsimile signatures and seals on public securities and instruments of payment issued by the state or any of its instrumentalities or political subdivisions; constituting a felony the use of such signatures or seals with intent to defraud; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Definitions.) As used in this Act:

1. "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments, agencies, public bodies, or other instrumentalities or by any of its political subdivisions.
2. "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.
3. "Authorized officer" means any official of this state or any of its departments, agencies, public bodies, or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted.
4. "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer.

§ 2. Facsimile Signature.) Any authorized officer, after filing with the secretary of state or, in the case of officers of any city, village, county, school district or other political subdivision, with the clerk of such subdivision, his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

1. Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed, but no such manual subscription shall be required as to interest coupons attached to such security; and

2. Any instrument of payment.

Upon compliance with this Act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

§ 3. Use of Facsimile Seal.) When the seal of this state or any of its departments, agencies, public bodies, or other instrumentalities or of any of its political subdivisions is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

§ 4. Violation and Penalty.) Any person who with intent to defraud uses on a public security or an instrument of payment:

1. A facsimile signature, or any reproduction of it, of any authorized officer, or
2. Any facsimile seal, or any reproduction of it, of this state or any of its departments, agencies, public bodies, or other instrumentalities or of any of its political subdivisions is guilty of a felony.

§ 5. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 15, 1965.