

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2093

Page 1, line 1, remove "to create and enact a new section to chapter 11-10 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to authorizing counties to enter purchasing card agreements;"

Page 1, line 3, after the second comma insert "and" and replace the second "and" with a comma

Page 1, line 4, remove "subsection 4 of section"

Page 1, line 6, replace "expenditures" with "authority"

Page 1, remove lines 17 through 24

Page 2, remove lines 1 through 16

Page 3, replace lines 12 through 31 with:

"44-08-05.1. Payments - Requirements for approval Purchasing card authority - Penalty –Action for violations.

1. Any public officer or employee who has the power to approve a payment ~~for a department, agency, or institution~~ for travel expenses or any other ~~state~~ expenditure of public funds shall determine before approving the payment:
 - 4- a. That the expenditure for travel or other expenditures were for lawful and official purposes.
 - 2- b. If for 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- c. If the payment is for expenditure other than travel expense, that the expenditure is lawful and that the payment contains no false claims.

~~For purchases made with the use of a purchasing card authorized under section 54-44.4-11, an~~

2. The director of the office of management and budget, the state board of higher education, the governing body of any political subdivision, and the board of any school district may establish and administer a purchasing card system for use by its officers, employees, representatives, or agents. If the director of the office of management and budget establishes a cooperative purchasing contract under section 54-44.4-13, each participating government entity is responsible for its purchasing card system.

3. An employee of the office of management and budget designated by the director of the office of management and budget, on behalf of all state agencies, may review and approve payments under this section made with a purchasing card and make payments pursuant thereto. The director of the office of management and budget may designate the state agencies that are required to use the purchasing card system.

4. Any public officer or employee who willfully fraudulently uses a purchasing card or knowingly approves a payment with knowledge it contains for false or unlawful claims or that it which does not otherwise meet the requirements of this section for approval is guilty of theft and punishable under chapter 12.1-23 may be subject to criminal prosecution under title 12.1. Any public officer or employee who, without the use of ordinary care and diligence, negligently uses a purchasing card or approves a 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 any funds improperly expended. The director of the office of management and budget, members of the office of the budget, state auditor Any public officer, employee, or any other person individual who has knowledge of an actual or possible violation of this section shall make such that information known to the attorney general or the appropriate state's attorney. The attorney general or appropriate state's attorney shall investigate any alleged violation and, if a violation appears to exist, shall prosecute under chapter 12.1-23. If there is probable cause to believe that a violation has occurred, the attorney general or appropriate state's attorney shall initiate a criminal prosecution under title 12.1 or bring a civil suit against the public officer or employee for the recovery of such the funds as may actually have been improperly paid against the payee and officer or employee who approved the payment in violation of the above requirements or shall bring both such criminal action and civil suit. The officer or employee who approves any payment negligently has the right of subrogation against the payee of the payment in the event public funds have been improperly paid to the payee, or may initiate a prosecution and a civil suit."

Page 4, remove lines 1 through 10

Page 4, line 11, replace "Subsection 4 of section" with "Section"

Page 4, replace lines 13 through 18 with:

"54-44.4-11. Small purchases.

1. A procurement not exceeding the amount established by written directive of the director of the office of management and budget ~~under section 54-44.4-02~~ or by the state board of higher education under subsection 5 of section 15-10-17 may be made in accordance with small purchase procedures.
2. A small purchase need not be made through competitive sealed bidding or competitive sealed proposals. However, small purchases must be made with competition that is practicable under the circumstances.
3. Procurement requirements may not be artificially divided as to constitute a small purchase under this section.
4. ~~The director of the office of management and budget may establish and administer, including by contract with a provider, a system of procurement~~

~~for commodities agencies are authorized to purchase under this section. If the director establishes a purchasing card system under this subsection, the director may designate which agencies are required to use the purchasing card system for purchasing commodities under this section. The office of management and budget shall develop and operate a searchable web site or on the office's web site provide a link to a searchable web site accessible to the public at no cost to the user which lists, and updates monthly, each purchase made by a state agency through the use of a purchasing card. Each purchase listed must include the recipient of the funds, the amount of the purchase, the agency making the purchase, and any other information required by the office of management and budget."~~

Renumber accordingly