

April 3, 2007

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2093

That the House recede from its amendments as printed on pages 1039-1041 of the Senate Journal and pages 1127-1129 of the House Journal and that Engrossed Senate Bill No. 2093 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 11-10-16, subsection 2 of section 44-08-04, and sections 44-08-04.4, 44-08-05.1, and 54-44.4-11 of the North Dakota Century Code, relating to payment of travel expenses of state and county officers and employees and purchasing card authority; and to provide a penalty.

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

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

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

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

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

**SECTION 3. AMENDMENT.** Section 44-08-04.4 of the North Dakota Century Code is amended and reenacted as follows:

**44-08-04.4. Prepayment of travel expenses of state officers and employees.** Any travel expense, including airline tickets and registration fees, that

must be incurred more than five weeks in advance of approved travel ~~of to meet necessary deadlines or to obtain low rates, may be purchased by the state or any elected or appointed officer, employee, representative, or agent of this state to meet necessary deadlines or to obtain low rates must be purchased prepaid by the state.~~ No state entity may require an officer, employee, representative, or agent of the state to pay these expenses.

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

**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.

**SECTION 5. AMENDMENT.** Section 54-44.4-11 of the North Dakota Century Code is amended and reenacted as follows:

**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."~~

Renumber accordingly