

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2093

2007 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2093

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2093

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 01/04/07

Recorder Job Number: 625

Committee Clerk Signature

Monica Spaulding

Minutes:

Roll was taken and all members were present. Sen. Dever, Chairman opened the hearing on SB 2093, relating to payment of travel expenses of state officers and employees and purchasing card expenditures. Chuck Lang OMB introduced the bill, mentioned that it would have no fiscal impact, and reviewed the bill. See attachment #1.

Terry Traynor, Assistant Director of ND Association of Counties spoke in favor of SB 2093 and introduced an amendment to the bill to address the reimbursements for county employees.

See attachment #2.

Sen Horne questioned whether the counties' use of purchasing cards in the past have been illegal.

Mr Traynor jokingly said he had tried to avoid saying that. He said a number of State Attorneys felt this amendment would give them the authority that they would need.

Sen. Dever asked whether this would allow the counties to establish their own policies.

Mr Traynor confirmed that was correct.

Further support: -

Opposition: -

Neutral: -

Sen. Dever asked if there had been problems with the abuse of purchasing cards.

Chuck Lang responded that the purchasing card provider has their own safeguards for fraud and there had been very little fraud to date. What fraud did occur was on stolen cards.

Sen Dever closed the hearing on SB 2093.

Senator Nelson moved to approve the amendment.

Senator Oehlke seconded the motion.

Discussion:

Roll Call Vote on amendment: Yes 6 No 0 Absent 0

Sen. Lee moved a Do Pass on SB 2093

Sen. Horne seconded the motion.

Discussion:

Roll Call Vote on amended bill: Yes 6 No 0 Absent 0

Carrier: Senator Lee

Date : 1-4-07
Roll Call Vote # : 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2093

Senate Government and Veteran Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number 78084.0101 amendment to SB 2093

Action Taken _____

Motion Made By Nelson Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman	✓		Senator Robert Horne	✓	
Senator Dave Oehlke - Vice Chairman	✓		Senator Richard Marcellais	✓	
Senator Judy Lee	✓		Senator Carolyn Nelson	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-4-07
Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2093^{with} Amendment

Senate Government and Veteran Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By Lee Seconded By Horne

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman	✓		Senator Robert Horne	✓	
Senator Dave Oehlke - VC	✓		Senator Richard Marcellais	✓	
Senator Judy Lee	✓		Senator Carolyn Nelson	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Lee

If the vote is on an amendment, briefly indicate intent:

Library

REPORT OF STANDING COMMITTEE

SB 2093: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (06 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2093 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 11-10 of the North Dakota Century Code, relating to authorizing counties to enter purchasing card agreements; to" and after "reenact" insert "section 11-10-16,"

Page 1, line 3, after "state" insert "and county"

Page 1, line 4, after "expenditures" insert "; and to provide a penalty"

Page 1, after line 5, insert:

"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. A new section to chapter 11-10 of the North Dakota Century Code is created and enacted as follows:

Purchasing card authority - Penalty.

1. A board of county commissioners may approve entering a purchasing card agreement, including participation in a cooperative purchasing contract established by the office of management and budget.
2. A public officer or employee who willfully uses or approves any purchase with a purchasing card which is false or unlawful or otherwise does not comply with any requirement in the contractual agreement is guilty of theft and punishable under chapter 12.1-23.
3. A public officer or employee who willfully uses or approves a payment with a purchasing card which is false or unlawful or not authorized is personally liable for any funds improperly expended.
4. The manager of a purchasing card system or any other individual who has knowledge of an actual or possible violation of this section shall make the information known to the attorney general or the appropriate state's attorney. Upon receipt of a report of an alleged violation, the attorney general or state's attorney shall investigate the alleged violation and, if a violation appears to exist, prosecute the offender or bring a civil suit for the recovery of the funds that may have been improperly paid against the payee and the individual who approved the payment.

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

Renumber accordingly

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2093

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2093

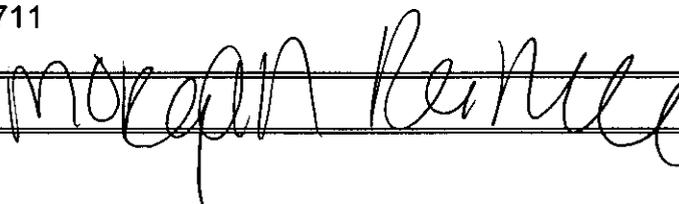
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: 4711

Committee Clerk Signature



Minutes:

Jeff Larshus: Testimony attached.

Rep. Meier: What would be an example of this?

Jeff Larshus: An example is that our facility management puts on the card the monthly water bill. They use their annual elevated contract and they pay an annual amount. It is roughly 100,000 dollars. They are using that on the cards. Some agencies may have their IT people buying computers for the agency.

Rep. Haas: Are these purchasing cards, who are they with?

Jeff Larshus: Our card provider is General Electric Financial out of Salt Lake. Last August we just had a new card. They are the ones that were chosen and that all state agencies use.

Rep. Haas: Does the state accumulate some type of redeemable points?

Jeff Larshus: They do have a rebate program. They have a complex schedule based on how soon after the bill is due, the payments made by the state. There will be a rebate given back to the state board.

Rep. Haas: What happened to that rebate?

Jeff Larshus: We will be putting that into general funds.

Rep. Amerman: So an employee prepays for a motel room. That way he can get reimbursed quicker with this card?

Jeff Larshus: Yes. If someone did have to pay for a lodging night, the conference was three months down the road, they could pay for that.

Rep. Amerman: So a snowstorm comes and I can't get there, but I have been reimbursed, what happens?

Jeff Larshus: They would have to pay that back. If for some reason they were reimbursed and that travel never occurred, they would pay it back.

Rep. Kasper: How many of these cards are floating around out there? Does each agency have one card, does each employee have a card? What is the security on these cards and the auditing and monitoring of them?

Jeff Larshus: It's up to the agency as to who would have the purchasing card. Not every employee does. It is limited. They have an administrator within the agency that monitors programs for their agency. The people that you have would have to set up monthly forms as far as purchases. It varies from agency to agency.

Rep. Kasper: Are these agencies then audited by OMB or is there a check on them all?

Jeff Larshus: Yes we periodically do audits in the auditor's office. The agency does their audits.

Terry Traynor: Testimony attached.

Rep. Amerman: You say that section 1 and 2 were brought forth from the association of counties. In these 2 sections you can now use these cards.

Terry Traynor: Page 1 line 20 is the authorization. That is correct. That is where they can enter into a purchasing card agreement.

Rep. Haas: Look at the engrossed bill.

Rep. Kasper: Are these credit cards, are they purchasing cards, are they Visa, is there a company that makes these p-cards. Are they issued in the name of the employee, or the county?

Terry Traynor: I'm not familiar with every county. Those that are, a number of them use a credit card. It's a visa/MasterCard issue. They are issued to the agencies themselves. There are individuals within the county that are authorized to make transactions.

Rep. Kasper: So the card would have Cass County on it. Would the employees name be on it? Or would it just be the counties name that is on it?

Terry Traynor: They are MasterCard issued credit cards. It is the state of ND, the employees name is on there. It is pretty specific.

Rep. Haas: Once the agency requests the particular employee to have the card, the card is made specific to that employee.

Rep. Kasper: Are these cards paid every month with no interest, or do they carry balances where states have interest?

Terry Traynor: What we do is that every month the bill is paid in full.

Rep. Weiler: Will these cards be good when they are traveling?

Terry Traynor: Yes, down the road they can use it for certain traveling. An example is your lodging. As far as meals and so forth, we can't allow them on there because they are allowed so much a day for them. The lodging would be charged to the P-Card. We talked earlier about authorized purchases. We do have the ability to only allow certain types of purchases. We can put a limit on there so they can only be used at particular merchants. You can limit and restrict a particular person to what they can actually use the card for.

Rep. Weiler: Is there a way you can put a limit on there?

Terry Traynor: Yes. They can determine who in their agency gets a P-Card.

Rep. Meier: Has there been any reports of people abusing these P-Cards?

Terry Traynor: There have been some accidental situations like when someone picks a wrong card and it is a personal purchase. That happens but they reimburse. To my knowledge nobody has purposely abused these cards.

Rep. Amerman: Are the payments made in full or how does that work?

Terry Traynor: We have a couple of cards in our office for an example. When people travel we use that card for their travel and we have all their documentation. We use the card for stuff like that. The payment is made once a month for all agencies. We could have 150 different purchases that we make 1 payment a month for.

Rep. Boehning: Do they charge you a fee for using them?

Terry Traynor: No.

Ed Gerhardt: *I am the business manager for the Bismarck Public Schools. I came here today to learn about this so I wasn't planning on testifying. I know that this bill has been amended to include counties and I guess as a school employee I would like to suggest including school districts and possibly cities. Last session the legislator did pass an amendment about the P-Card so we could use a credit card. I think the school district should be able to use the credit card and we did in fact start with one that I keep in my desk. We use it for the types of situations like online purchasing, reservations, etc. What we have discovered in that period of time is that it has come unreal for the terms of keeping track of who charged what with this one credit card. People forget to turn in receipts and we don't know who charged this. I have been in contact with OMB who manages the P-Card system and decided to piggyback with the state when they went through their selection process. Just in the last couple of months we got on our own and decided to select a company that we would piggyback with them. Just earlier this afternoon I met with our building and ground staff and for the first time issued credit cards to*

our maintenance and grounds people who make a lot of small purchases. We feel that we will have better control over credit card purchases that I can download on the internet that in the past would either come as a receipt or in some cases a form for reimbursement. I just raise the question that if it is possible and if you feel necessary some careful consideration for the language to apply to school districts. It would be nice to have this type of system.

Rep. Kasper: You said you are using credit cards already. What is wrong with expanding on your credit cards? Is there an advantage of joining this purchasing card authority to get lower rates? Why not just expand what you are doing?

Ed Gerhardt: its better controls and better systems. They have the ability to set up within one overall account. You can set up separate groups and divisions that when someone is using a credit card it is easier to track back to what building that came from and the fact that they do it over the internet to download our statements. It's a more managed system through this group. They have more sophisticated controls then if each individual were to get a card. The card that we are getting for our employees does not have their social security on it, just the employee ID number on it so there is no identity theft or anything like that.

Rep. Kasper: What I hear you saying is that you can have one master account with 15-20 accounts under that so it can show what your employees purchased. So when you reconcile you can see what they spent?

Rep. Meier: How many P-Cards are you using if we would include an amendment?

Ed Gerhardt: This first group that we set up with our building and grounds staff, we have 35 employees that are issued these P-Cards. We are going to use them as sort of our learning guinea pigs to make sure it works before we issue more. They are all within one department so before we get any cards out to the schools we will know how they work and know if we can handle and manage it. For the next 4-5 months we are going to do this and this fall when

school starts again we will consider issuing cards on an as needed basis to those principals, teachers, and staff who do a lot of small purchasing. Our Home-Ec teacher can go to the store and charge supplies. When we get that bill from Dan's Supermarket we can find out how much was purchased and reconciles the invoices. This way each individual teacher can do that. We will get a statement that says teacher x bought this and that. That way if we are missing a receipt we will know who to contact. With the system we have now if we are missing a receipt we don't know where to start looking.

Rep. Meier: Are you thinking eventually that every employee will have a P-Card eventually.

Ed Gerhardt: I doubt it, not every employee could make purchases. I really hesitate to guess how many will have them. I doubt that it will be half of them. It is going to be a work in progress. If there is some reason why they don't work we are going to back off on them. It is easier to go online and add accounts or cancel accounts if someone loses their card. It is very user friendly. We haven't had experience with them but with the state's experience and the service Rep. that I dealt with, it sounds like it is going to well very well.

Rep. Weiler: Mr. Larshus made the comment that these cards would be able to be restricted to certain places, can you do that with each individual card or the whole system? So in other words that the state agency has can be restricted, and they can only do it for hotels, but the schools can only use it for supplies, etc?

Jeff Larshus: Yes we can restrict by cardholders. Like the highway patrol can buy ammunition.

Sherry Neas: Just some additional testimony to address the school board situation. We actually did look at that when we were working with the association of counties on the school district. Last session there was legislation that was enacted to allow OMB to possibly purchase with political subs and school districts. The cooperative purchasing card is enabled. I did talk to

Bev Nielson at the school board association regarding the school districts legislation last session. We would be glad to look at that with the committee. The language the school districts use is in the section that enables the business manager to establish a purchasing card program.

Rep. Haas: And that is why Mr. Gerhardt has the only one?

Sherry Neas: Yes. So it would depend upon how that was circuited from last session.

Rep. Haas: You are telling us that if we want to expand this to include school boards in a broader sense we do need an amendment to this bill?

Sherry Neas: I believe that we clarified that. I had this conversation with Bev Nielson. I can't speak on their behalf but they had decided not to pursue it but there could be room for clarification of that statute. If they do accept the P-Card issue it will be expanded to employees within that school district.

Rep. Amerman: How many schools are we talking about, and does each have a school board?

Sherry Neas: No. All the Bismarck schools have one board.

Rep. Amerman: So each school doesn't have a school board? I was wondering if one school board doesn't want to do it.

Rep. Haas: Well this is an optional thing.

Sherry Neas: Yes the language opens it up for it to be optional.

Rep. Haas: Is there any other testimony on SB 2093? If not we will close the hearing on SB 2093.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2093

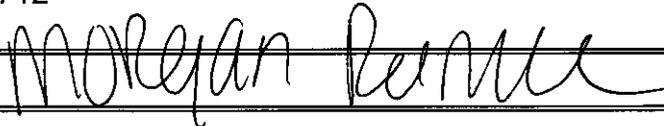
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: 4712

Committee Clerk Signature



Minutes:

Rep. Haas: Are your wishes to explore the possibility of expanding this to include school boards. Is that your wishes? Do I have a volunteer to work with Sherry on those regards?

Rep. Grande: I will.

Rep. Froseth: I think that maybe this bill should work for a couple of years with what we have here now. If we open it up to school boards that is a pretty vast area. We might be skating on some thin ice.

Rep. Kasper: The school districts can already use credit cards. This is just authorizing them to use this new system. It will be more user friendly for them and more efficient as well. That is where I see that.

Rep. Haas: Having been a business man under the school district for a number of years, one of the most significant primary concerns that a manager pays attention to is internal controls and audit trails. Believe me, the less somebody has the inclination to do dishonest things, they won't happen. There have been instances that it has happened.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2093

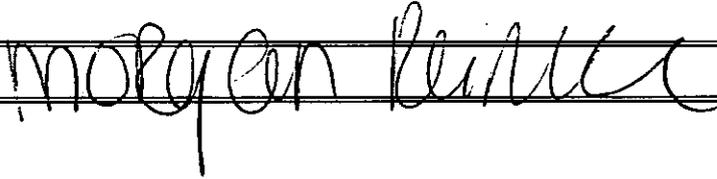
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 15, 2007

Recorder Job Number: 5200

Committee Clerk Signature



Minutes:

Rep. Grande: Amendment attached.

Rep. Grande: These will look a little complicated and that is why we brought Sherry Neas back down to explain them. If you remember the P-Card bill and the school districts asking if they could have participation in this. Sherry Neas went to work with all of the groups involved and has come together with a comprehensive amendment that really worked well with this. If you would indulge me to let her explain the amendments.

Rep. Haas: That would be fine.

Sherry Neas: This was a cooperative effort. Everyone did agree with the changes. The goal of this amendment is to put all of the language related to P-Card with the state and school board into one section of law to void the duplication that was going to be created with the original engrossed bill. One of the value ads of doing this is that section 5 of the bill does have ethics. It has criminal and civil penalties that are applied. If we go to the bill the introduction is changed. We are no longer enacting a new section in chapter 11 which was the counties. We are simply amending the existing statutes. Section 2 of the bill is deleted in its entirety. That section is going to create authority for the counties. Then it will duplicate the criminal and civil penalties that already exist in the law in section 5. There were no changes in section 3 or 4. In

section 5 we are renaming the title. We are striking actions for violations because that just duplicates the penalty portion. In the first paragraph under 44.08.05.1 we are striking the words that sculpt the mold of state agencies only so that it can be generally brought to any public office or employee. Organizationally we put subsections in. Section 2 is moved. The language there is very broad. It allows the OMB, State Board of Higher Education, and the subdivisions and school board of any district can monitor the purchasing card program for all its employees. Sometimes there are contractors and other people that are not necessarily and officer or employee but do administrative programs. A good example would be the Department of Commerce. They have authority that they actually run by contractors. Then it references another section of law which is under state purchasing chapter that was passes last session that allows OMB to do contract on behalf of the political subdivisions. I just want to point out that parts of the language here actually comes from section 6. OMB's enabling language was in the state purchasing law. Section 6 of the bill was amended. Instead of amending 54-44, we are striking the whole 4th section and moving that into the 44-08. The changes in section 4 are just to open it up for state agencies and political subdivisions. With regards to investigations, the attorney general was in there, but it now includes the appropriate states attorney. Section 6 again strikes out the last section.

Rep. Grande: In legislative council's amendment, I'm looking at the part where you and I had discussed the penalty phases and liability. I just don't see the amendments.

Sherry Neas: Rep. Grande and I had discussed that when you are doing cooperative purchasing, they want to make sure that each entity is responsible for administering its own program and also liable for any expenditures that is made. If you look at the last sentence on the first page, it's the director of OMB that is establishing the proper purchasing contract. Each

participating government entity is responsible for its purchasing cards. We didn't talk specifically about financial liability and the administration, we hope that it would be effective.

Rep. Grande: I did see as I was reading the current language in part 4, halfway through it says a person is personally liable for any funds. I was just wondering if that was current language.

Rep. Kasper: On page 2 section 3, we passed legislation of the original bill. We passed that bill out of chambers.

Rep. Grande: Those numbers will be reconciled into the bill later because it hasn't been signed by the governor.

Rep. Haas: That bill is sitting in appropriations still pending.

Rep. Grande: But they will merge after we leave.

Rep. Haas: What are your wishes?

Rep. Grande: I move the amendment.

Rep. Dahl: I second that.

Rep. Haas: Is there any further discussion on the amendment? If not we will take a voice vote on the amendment. All in favor say 'aye' all opposed say 'no'. The amendment is carried.

Rep. Weiler: I have some amendments also that I would like to pass out. I can explain what it does. It is a very simple amendment. The amendment does one simple thing. These P-Cards that several state employees and agencies are going to have, are going to have the name of the employee and the agency. I felt that it is fairly important that we allow the public to have access to what goes on with these P-Cards. It says that OMB shall operate a single searchable website, accessible to the public at no cost, and list the monthly updates of what goes on with the purchases. They are going to have to take the statement that they get every month and post it on the website. I move the amendment.

Rep. Kasper: I second that.

Rep. Froseth: I guess my question or concern is that will OMB need additional FTE's or appropriations?

Rep. Weiler: I don't know the answer to that but my guess is with the IT department that we have, and the millions of dollars they spend, they should have enough resources to take care of a little website.

Rep. Grande: I agree with the amendment. I do have one thing that came up. Should it say that each agency should have that? Right now we are asking for only higher education to do it.

Rep. Weiler: I was thinking along the same lines as I was reading your amendments where it says at the bottom of page 1. So I think you are asking if the Board of Higher Education has to post their own on a website and if the political subdivisions have to post their own on the website? My amendment reads that OMB has to do all of that.

Sherry Neas: Under the amendment that we just passed, each entity is responsible for its own P-card program. They were just using the view that was established by OMB. That information would reside with the vendor but also to the entity using the card.

Rep. Grande: When you read the second set of amendments do you feel we need to break it out to clarify it?

Sherry Neas: It would be unfair.

Rep. Haas: OMB wouldn't have access to the information in order to post that information for a school district or a county.

Sherry Neas: One could write the contract so we have access to that. We normally do.

Rep. Haas: Would your record keeping permit such a thing as posting specific purchases? That would only be true for state contracts, am I correct? If a school district buys into a state negotiated contract, you would have that information? But if the school district uses the P-Card for a custodian to go buy plumbing supplies, you have no access to those records.

Sherry Neas: Yes, but we could write a contract so we would. Ultimately the contractor would have access to all this information to all the entity purchasing under the state contract. We would have to get the information from the contractor. We do actually get reports. Any of that is already public information. Right now without additional language you could have access to the purchases made by any entity.

Rep. Haas: If a political subdivision is not purchasing off a state contract, but using their purchasing card, would you still have access to that record?

Sherry Neas: No, if they weren't entered into a state contract we would have no access to that.

Rep. Potter: With the posting of all of the purchases from the card, what kind of work will that take to post all of that on the internet? What kind of costs will it take? I have changed websites and it is time consuming. I'm just wondering how much time we are looking at.

Sherry Neas: I would be concerned about the administration costs of maintaining this website. Especially if you look at the volume of cities, counties, schools, etc. The size of the file times 12 will be posted. This information is public. As a suggestion, that would be it. If any interested party wanted to know about the volume, or get those reports they are available. We are electronically connected with the vendor so we do get downloads. Anyone can do that.

Rep. Weiler: If I wanted to go find out this information about what state agencies are spending, how do I go about that? You said its open record and accessible?

Sherry Neas: Right now if you wanted to have a report on what our spending has been in the past, you would make that request to us and we would get that file and dump it into excel. Every transaction is coded with the type of vendor it's from. Some vendors have a deeper level of coding so you can see what is being purchased.

Rep. Weiler: I think that is the problem that people have to request the information. I want it so the people can see it without having to call a state agency and request it. In light of this I would like to withdraw my motion had have until next Thursday to fix this. I do understand there are some issues.

Rep. Haas: We have an amended bill 2093 which we will take up again next Thursday.

