

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2271**

Introduced by

Senator Laffen

1 A BILL for an Act to amend and reenact section 48-05-10, 48-05-11, and 48-05-12 of the North
2 Dakota Century Code, relating to energy conservation measures.

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

4 **SECTION 1. AMENDMENT.** Section 48-05-10 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **48-05-10. Energy conservation measure recommendations.**

7 Before entering into a contract under section 48-05-11, a governmental unit shall submit a
8 request for proposals. The time period between the request for proposals and the due date for
9 proposals may be no less than fifteen business days. Upon receipt of the request for proposals,
10 the governmental unit shall evaluate all reports/proposals from qualified providers which
11 summarize/include estimates of all costs of installations, modifications, or remodeling, including
12 costs of design, engineering, installation, maintenance, repairs, or debt service, and estimates
13 of the amounts by which energy or operating costs will be reduced. ~~If technical assistance is not~~
14 ~~available by a licensed architect or registered professional engineer on the governmental unit~~
15 ~~staff, then the evaluation of this report must be done by a registered professional engineer or~~
16 ~~architect, who is to be retained by the governmental unit. The governmental unit may pay a~~
17 ~~reasonable fee for preparation of the report or include the fee as part of a contract under section~~
18 ~~48-05-11.~~

19 **SECTION 2. AMENDMENT.** Section 48-05-11 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **48-05-11. Guaranteed energy savings contracts.**

22 The governmental unit shall provide public notice of the meeting at which it proposes to
23 award a guaranteed energy savings contract, the names of the parties to the proposed contract,
24 and the purpose of the contract. After reviewing the report under section 48-05-10, a

1 governmental unit may enter a guaranteed energy savings contract with a qualified provider if
2 the governmental unit finds that the amount the governmental unit would spend on the energy
3 conservation measures recommended in the report is not likely to exceed the amount to be
4 saved in energy and operation costs over a period not exceeding fifteen years from the date of
5 installation if the recommendations in the report are followed. The contract must include a
6 written guarantee of the qualified provider that the energy and operating cost-savings will meet
7 or exceed the costs of the project, including costs of the system, a list of subcontractor pricing,
8 the financing costs for the project, and any provider fees. The written guarantee must be for a
9 period equal to the financing period, which may provide payments over a period not exceeding
10 fifteen years. If the governmental unit can document that savings meet or exceed the payment
11 for a period of not less than three years, the governmental unit may request a waiver of the
12 guaranteed portion of the contract for the remainder of the financing term. A guarantee waiver
13 request must be approved by a committee administered by the division of community services.
14 If the contract involves facility alteration or real property improvement, a qualified provider to
15 whom the contract is awarded shall give a sufficient bond to the governmental unit for the
16 faithful performance of the contract.

17 **SECTION 3. AMENDMENT.** Section 48-05-12 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **48-05-12. Competitive bidding and architect and engineering services.**

20 Guaranteed energy savings contracts are not subject to the requirements of chapter
21 48-01.2, which relate to competitive bidding, ~~and are not subject to section 43-19.1-28.~~