

Introduced by

Senators Lee, Bekkedahl

Representatives Lefor, Monson

1 A BILL for an Act to create and enact two new sections to chapter 54-44.4 and subsection 3 of
2 section 54-44.4-14 of the North Dakota Century Code, relating to payments for purchases,
3 communication with elected officials, and the procurement information website; and to amend
4 and reenact subsection 7 of section 54-44.4-02 of the North Dakota Century Code, relating to
5 emergency purchases.

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

7 **SECTION 1.** A new section to chapter 54-44.4 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Elected officials - Bidder - Communication.**

10 ~~Notwithstanding any other provision of law, the~~The office of management and budget ~~may~~
11 ~~not restrict communication between a~~shall develop guidelines for a person interested in
12 ~~conducting business with the state. The guidelines must address communications between~~
13 ~~interested persons and purchasing agencies before, during, and after the procurement process.~~
14 ~~Procurements conducted by the office of management and budget or a purchasing agency must~~
15 ~~have a procurement officer who serves as the point of contact for all correspondence related to~~
16 ~~the procurement. A person that is interested in submitting a bid or has submitted a bid or~~
17 ~~proposal to provide commodities or services to the state and any~~in response to an active
18 ~~procurement should ensure all communications related to the procurement are only with the~~
19 ~~designated point of contact. This section does not restrict an interested person's communication~~
20 ~~with state official~~officials or any member of the legislative assembly unless the state official or
21 ~~member of the legislative assembly is involved directly with the procurement for which the~~
22 ~~person is interested or has submitted a bid or proposal. This section does not apply to~~
23 ~~communication with a state official directly involved with a bid under consideration.~~

1 **SECTION 2. AMENDMENT.** Subsection 7 of section 54-44.4-02 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 7. Emergency purchases the office of management and budget or a purchasing agency
4 cannot make within the required time and which involve public health or public safety,
5 or when immediate expenditures are necessary for repairs of state property to protect
6 it against further loss or damage, or to prevent or minimize serious disruption in state
7 services.

8 a. Emergency purchases made under this subsection must be:

9 ~~(1) Be made with the level of~~treat all bidders fairly and promote competition
10 as is practicable under the circumstances, and a:

11 ~~(2) Include a~~

12 b. The procurement file must contain a written determination of ~~the~~:

13 ~~(1) The basis for the emergency;~~ and for

14 ~~(3) Include a written explanation of the~~

15 (2) The basis for the selection of the particular contractor ~~which must be~~
16 included~~retained in the contract file.~~

17 ~~b. Emergency bids under this subsection must include a sample of the commodity~~
18 ~~to be purchased, and a bidder may not change the bid proposal for forty eight~~
19 ~~hours after submission.~~

20 c. If the emergency circumstances warrant a noncompetitive purchase, the office of
21 management and budget or the purchasing agency shall document within the
22 procurement file a written determination of the basis for the noncompetitive
23 purchase, including the circumstances that justified the noncompetitive purchase.

24 d. If the emergency purchase is subject to federal funding reimbursement, the office
25 of management and budget or the purchasing agency shall ensure the
26 procurement procedures and documentation are adequate to satisfy
27 requirements for federal reimbursement.

28 e. If time allows, emergency purchases for commodities under this subsection may
29 require a sample for use in determining whether an offered product meets
30 specifications.

1 **SECTION 3.** A new section to chapter 54-44.4 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Purchases - Payment – Commodity.**

4 The purchasing agency ~~shall pay~~ and the vendor ~~may negotiate payment terms~~ for all
5 commodities ~~within thirty days of receipt of an invoice~~ and services procured. If a date for
6 payment is not specified by the contract, payment must be made pursuant to section
7 13-01.1-01.

8 **SECTION 4.** Subsection 3 of section 54-44.4-14 of the North Dakota Century Code is
9 created and enacted as follows:

10 3. The office of management and budget shall establish and maintain a standardized~~bid~~
11 procedure for the submission of electronic bids and proposals through the
12 procurement information website. ~~The procedure must minimize the length of a~~
13 ~~solicitation for bid and include only the unique specifications related to the commodity~~
14 ~~or service sought~~ The office of management and budget, in consultation with the office
15 of the attorney general, shall develop standardized solicitation documents. The
16 documents must be made available on the procurement information website. When
17 drafting a solicitation, the office of management and budget and purchasing agencies
18 shall use their best efforts to minimize the length of the solicitation by ensuring only
19 those sections from the standardized solicitation documents applicable to the
20 procurement are included.