

Fifty-ninth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1377

Introduced by

Representatives Gulleason, Amerman, L. Meier

Senators Brown, Heitkamp, Tollefson

1 A BILL for an Act to create and enact a new section to chapter 44-08 of the North Dakota  
2 Century Code, relating to disclosure of whether work on state contracts will be performed within  
3 the United States; and to amend and reenact section 44-08-01 of the North Dakota Century  
4 Code, relating to bidding preferences.

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

6 **SECTION 1. AMENDMENT.** Section 44-08-01 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **44-08-01. Preference to North Dakota bidders, sellers, and contractors -**  
9 **Preference for services performed in United States.**

- 10 1. The office of management and budget, any other state entity, and the governing  
11 body of any political subdivision of the state in purchasing any goods,  
12 merchandise, supplies, or equipment of any kind, or contracting to build or repair  
13 any building, structure, road, or other real property, shall give preference to  
14 bidders, sellers, or contractors resident in North Dakota. The preference must be  
15 equal to the preference given or required by the state of the nonresident bidder,  
16 seller, or contractor.
- 17 2. A state entity authorized to accept bids shall give preference to a resident North  
18 Dakota bidder when accepting bids for the provision of professional services,  
19 including research and consulting services. The preference must be equal to the  
20 preference given or required by the state of the nonresident bidder.
- 21 3. The office of management and budget or any other state entity authorized to  
22 accept bids for any service shall give preference to a bidder that indicates that the  
23 work will be performed in the United States if two or more bidders submit

1           substantially equal bids and any of the other substantially equal bids indicates that  
2           the work will be performed outside the United States.

- 3           4. The office of management and budget, any other state entity, and the governing  
4           body of any political subdivision of the state in specifying or purchasing any goods,  
5           merchandise, supplies, or equipment, may not specify any trademarked or  
6           copyrighted brand or name, nor the product of any one manufacturer, nor any  
7           patented product, apparatus, device, or equipment, when the same will prevent  
8           proper competition, unless bidders also are asked for bids or offers upon other  
9           articles of like nature, utility, and merit. When it is advantageous that the purchase  
10          be of a particular brand of product or products of a particular manufacturer to the  
11          exclusion of competitive brands or manufacturers, the purchasing board or entity  
12          must document those circumstances and provide written justification for the  
13          proprietary specification or purchase. The purchasing board or entity shall procure  
14          the proprietary product through a competitive process unless the needed product is  
15          available exclusively from one source of supply or other circumstances exist under  
16          which competition can be waived.

17          **SECTION 2.** A new section to chapter 44-08 of the North Dakota Century Code is  
18          created and enacted as follows:

19          **State contracts - Performance of work outside the United States - Notice.** A  
20          person submitting a bid or proposing to provide services for a state agency, department, or  
21          institution shall include a statement in the bid or proposal indicating whether the services  
22          covered by the bid or contract will be performed in the United States. If, during the term of a  
23          contract with a state agency, department, or institution, a contractor or subcontractor transfers  
24          work under the contract outside the United States, the contractor or subcontractor shall provide  
25          written notice to the agency, department, or institution that the work is being performed outside  
26          the United States. The notice must include a summary of the work being performed outside the  
27          United States and a disclosure of the location where the work is being performed.