

**SENATE BILL NO. 2394**

Introduced by

Senators O'Connell, Cook, Tollefson

Representatives Boucher, Schmidt

1 A BILL for an Act to amend and reenact section 44-08-01 of the North Dakota Century Code,  
2 relating to bidding preferences.

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

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

6 **44-08-01. Preference to North Dakota bidders, sellers, and contractors.**

- 7 1. The office of management and budget, any other state entity, and the governing  
8 body of any political subdivision of the state in purchasing any goods,  
9 merchandise, supplies, or equipment of any kind, or contracting to build or repair  
10 any building, structure, road, or other real property, shall give preference to  
11 bidders, sellers, or contractors resident in North Dakota. The preference must be  
12 equal to the preference given or required by the state of the nonresident bidder,  
13 seller, or contractor.
- 14 2. A state entity authorized to accept bids shall give preference to a resident North  
15 Dakota bidder when accepting bids for the provision of professional services,  
16 including research and consulting services. The preference must be equal to the  
17 preference given or required by the state of the nonresident bidder.
- 18 3. The office of management and budget or any other state entity authorized to  
19 accept bids for the purchase of motor vehicles shall give preference to a resident  
20 North Dakota bidder if two or more bidders submit substantially equal bids and any  
21 of those bidders is a nonresident bidder.
- 22 4. The office of management and budget, any other state entity, and the governing  
23 body of any political subdivision of the state in specifying or purchasing any goods,  
24 merchandise, supplies, or equipment, may not specify any trademarked or

1 copyrighted brand or name, nor the product of any one manufacturer, nor any  
2 patented product, apparatus, device, or equipment, when the same will prevent  
3 proper competition, unless bidders also are asked for bids or offers upon other  
4 articles of like nature, utility, and merit. When it is advantageous that the purchase  
5 be of a particular brand of product or products of a particular manufacturer to the  
6 exclusion of competitive brands or manufacturers, the purchasing board or entity  
7 must document those circumstances and provide written justification for the  
8 proprietary specification or purchase. The purchasing board or entity shall procure  
9 the proprietary product through a competitive process unless the needed product is  
10 available exclusively from one source of supply or other circumstances exist under  
11 which competition can be waived.