

TESTIMONY OF

Chad Keech, State Procurement Officer, Shared Services Division

Good afternoon, Chairman Heinert and members of the committee. My name is Chad Keech, State Procurement Officer within the Office of Management and Budget (OMB).

OMB supports HB 1269 and appreciates the opportunity to collaborate on the proposed amendment with the bill sponsor, Representative Schreiber-Beck, Dr. Martin of the Center for Distance Education (CDE), and the North Dakota Information Technology Department (NDIT). The proposed amendment is attached to my testimony.

In 2013, OMB granted the CDE a procurement exemption for curriculum in a written OMB directive. At that time, curriculum was copy-righted printed materials. In the fall of 2024, CDE and OMB realized that the exemption was out-date. Now, courses are virtual with online content. This bill moves the exemption for the CDE into law and modernizes the language.

Section 1 of the bill, as introduced, created an exemption from forms management requirements for the CDE. The original language amended the CDE law, North Dakota Century Code (NDCC) Chapter 15-19. The amendment is needed to move the exemption into the Forms Management law, NDCC Chapter 54-44.6. This change was coordinated with the sponsor, NDIT and CDE.

The amendment deletes the original Section 1 and creates a new Section 2 (page 4 of the amendment). The amendment changes the definition of agency to exclude the CDE which effectively exempts them from forms management requirements.

Section 2 of the bill, as introduced, amended state procurement law, NDCC Chapter 54-44.4, to exempt the CDE from procurement requirements for technology and educational content to deliver education virtually.

The amendment is needed because the original language would have broadly exempted CDE from all technology requirements. The proposed amendment changes Section 2 to narrow the exemption to "education content, educational technology tools, and related services."

HB 1122 also amends this section of procurement law to make it clear that an exemption from procurement competition requirements does not create an exemption from state laws related to information technology in NDCC chapter 54-59 and related information technology standards.

OMB supports this bill, as amended. This bill streamlines processes to enable the CDE to select curriculum and technology tools needed to delivery online courses while ensuring compliance with state IT requirements.

Mr. Chairman and committee members, this concludes my testimony. I ask your support for HB 1269 with the proposed amendment. I would be happy to answer any questions.

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1269

Introduced by

Representative Schreiber-Beck

1 A BILL for an Act ~~to create and enact a new section to chapter 15-19 of the North Dakota~~
2 ~~Century Code, relating to the exemption of the North Dakota center for distance education from~~
3 ~~forms management requirements; and~~ to amend and reenact ~~section~~sections 54-44.4-02 and
4 54-44.6-02 of the North Dakota Century Code, relating to procurement exemptions and an
5 exemption from forms management requirements for the North Dakota center for distance
6 education.

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

8 ~~— **SECTION 1.** A new section to chapter 15-19 of the North Dakota Century Code is created~~
9 ~~and enacted as follows:~~

10 ~~— **Exemption from forms management requirements.**~~

11 ~~— The North Dakota center for distance education is exempt from the forms management~~
12 ~~requirements under chapter 54-44.6.~~

13 **SECTION 1. AMENDMENT.** Section 54-44.4-02 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **54-44.4-02. Office of management and budget purchasing services.**

16 1. The office of management and budget shall purchase or lease or otherwise arrange
17 for the procurement, for all state agencies and institutions in the executive branch of
18 state government, all materials, furniture, fixtures, printing, insurance, services, and
19 other commodities. The International Peace Garden may participate in the

1 procurement authorized by this section. The following commodities and services,
2 however, are not subject to the procurement requirements of this chapter:

3 ~~1.a.~~ Land, buildings, space, or the rental thereof.

4 ~~2.b.~~ Telephone and telegraph service and electrical light and power services.

5 ~~3.c.~~ Public books, maps, periodicals, resource materials, and technical pamphlets.

6 ~~4.d.~~ Department of transportation materials, equipment, and supplies in accordance
7 with section 24-02-16.

8 ~~5.e.~~ Procurements by the industrial commission for energy-related programs under
9 chapters 17-05, 54-17.5, 54-17.6, 54-17.7, 54-63, and 54-63.1 and under those
10 statutes in title 38 authorizing the industrial commission to perform well and hole
11 pluggings, reclamation work, equipment removal, leak prevention, and similar
12 work.

13 ~~6.f.~~ Services for the maintenance or servicing of equipment by the manufacturer or
14 authorized servicing agent of that equipment when the maintenance or servicing
15 can best be performed by the manufacturer or authorized service agent, or when
16 such a contract would otherwise be advantageous to the state.

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

22 ~~a.(1)~~ Emergency purchases made under this subsection must treat all bidders
23 fairly and promote competition as is practicable under the circumstances;

24 ~~b.(2)~~ The procurement file must contain a written determination of:

25 ~~(1)(a)~~ The basis for the emergency; and

26 ~~(2)(b)~~ The basis for the selection of the particular contractor.

27 ~~e.(3)~~ If the emergency circumstances warrant a noncompetitive purchase, the
28 office of management and budget or the purchasing agency shall document
29 within the procurement file a written determination of the basis for the
30 noncompetitive purchase, including the circumstances that justified the
31 noncompetitive purchase.

- 1 ~~d.~~(4) If the emergency purchase is subject to federal funding reimbursement, the
2 office of management and budget or the purchasing agency shall ensure the
3 procurement procedures and documentation are adequate to satisfy
4 requirements for federal reimbursement.
- 5 ~~e.~~(5) If time allows, emergency purchases for commodities under this subsection
6 may require a sample for use in determining whether an offered product
7 meets specifications.
- 8 ~~8.~~h. Commodities and services costing less than a specified amount as determined
9 by written directive by the director of the office of management and budget.
- 10 ~~9.~~i. Specified commodities and services as determined by written directive by the
11 director of the office of management and budget.
- 12 ~~10.~~j. Employee benefit services, trust-related services, and investment management
13 services obtained by an agency with a fiduciary responsibility regarding those
14 services. Nothing in this subsection may be construed to allow an agency to
15 create or renew a contract perpetually and without limitation.
- 16 ~~11.~~k. Services to extract, tow, store, and dispose of abandoned or submerged vehicles
17 as defined in chapter 23.1-15.
- 18 ~~12.~~l. Contracts by the agriculture commissioner for agricultural market news services
19 under cooperative agreements with the United States department of agriculture,
20 ombudsmen for pipeline restoration under section 4.1-01-17, environmental
21 impact mitigation services under section 4.1-01-21.1, ombudsmen for wind
22 property issues under section 4.1-01-23, weed control inspection agents under
23 section 4.1-14-02, and hemp testing under section 4.1-18.1-04.2.
- 24 ~~13.~~m. Contracts by the state auditor for audits of computer systems under section
25 54-10-29.
- 26 ~~14.~~n. Contracts by the attorney general with experts under section 10-33-145.
- 27 ~~15.~~o. Contracts by the department of health and human services for online virtual
28 mental health and suicide prevention simulation-based training programs under
29 subsection 28 of section 50-06-05.1 and brain injury informal supports under
30 section 50-06.4-07.

1 p. ~~Purchases made~~Contracts by the North Dakota center for distance education for
2 ~~technology and~~ educational content, educational technology tools, and related
3 services for virtual delivery of education to deliverstudents in kindergarten
4 through grade twelve ~~education and related services virtually.~~

5 2. All purchases made by the office of management and budget or a state agency or
6 institution to which authority to purchase has been delegated by the office of
7 management and budget must be made in accordance with this chapter, rules adopted
8 under this chapter, and written policies of the office of management and budget.

9 **SECTION 2. AMENDMENT.** Section 54-44.6-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-44.6-02. Definitions.**

12 As used in this chapter, unless the context or subject matter otherwise requires:

- 13 1. "Agency" means any department, office, commission, board, or other unit, however
14 designated, of the executive branch of state government. The term does not include
15 the North Dakota center for distance education.
- 16 2. "Form" means any document designed to record information and containing blank
17 spaces and which may contain headings, captions, boxes, or other printed or written
18 devices to guide the entry and interpretation of the information.