

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1123

Introduced by

Government and Veterans Affairs Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to amend and reenact section 44-08-01 of the North Dakota Century Code,
2 relating to preference to North Dakota bidders for services and specifying name brand
3 merchandise.

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

5 **SECTION 1. AMENDMENT.** Section 44-08-01 of the 1999 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **44-08-01. Preference to North Dakota bidders, sellers, and contractors.**

- 8 1. The office of management and budget, any other state entity, and the governing
9 body of any political subdivision of the state in purchasing any goods,
10 merchandise, supplies, or equipment of any kind, or contracting to build or repair
11 any building, structure, road, or other real property, shall give preference to
12 bidders, sellers, or contractors resident in North Dakota. The preference must be
13 equal to the preference given or required by the state of the nonresident bidder,
14 seller, or contractor. ~~In specifying or purchasing goods, merchandise, supplies, or~~
15 ~~equipment to be purchased, the entity or board may not specify any trademarked~~
16 ~~or copyrighted brand or name, nor the product of any one manufacturer, nor any~~
17 ~~patented product, apparatus, device, or equipment, where the same will prevent~~
18 ~~proper competition, unless bidders also are asked for bids or offers upon other~~
19 ~~articles of like nature, utility, and merit.~~
- 20 2. A state entity authorized to accept bids shall give preference to a resident North
21 Dakota bidder when accepting bids for the provision of professional services,
22 including research and consulting services. ~~The state entity shall award the bid to~~
23 ~~the resident North Dakota bidder if the bid of the resident North Dakota bidder is~~
24 ~~equal to or less than the low bid of a~~ preference must be equal to the preference

given or required by the state of the nonresident bidder ~~and the resident North Dakota bidder has an acceptable performance history and meets the minimum requirements specified in the bid solicitation.~~

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