

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1269

Introduced by

Representative Schreiber-Beck

1 A BILL for an Act to amend and reenact sections 54-44.4-02 and 54-44.6-02 of the North
2 Dakota Century Code, relating to procurement exemptions and an exemption from forms
3 management requirements for the North Dakota center for distance education.

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

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

7 **54-44.4-02. Office of management and budget purchasing services.**

8 1. The office of management and budget shall purchase or lease or otherwise arrange
9 for the procurement, for all state agencies and institutions in the executive branch of
10 state government, all materials, furniture, fixtures, printing, insurance, services, and
11 other commodities. The International Peace Garden may participate in the
12 procurement authorized by this section. The following commodities and services,
13 however, are not subject to the procurement requirements of this chapter:

14 1.a. Land, buildings, space, or the rental thereof.

15 2.b. Telephone and telegraph service and electrical light and power services.

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

17 4.d. Department of transportation materials, equipment, and supplies in accordance
18 with section 24-02-16.

19 5.e. Procurements by the industrial commission for energy-related programs under
20 chapters 17-05, 54-17.5, 54-17.6, 54-17.7, 54-63, and 54-63.1 and under those
21 statutes in title 38 authorizing the industrial commission to perform well and hole

1 pluggings, reclamation work, equipment removal, leak prevention, and similar
2 work.

3 ~~6-f.~~ Services for the maintenance or servicing of equipment by the manufacturer or
4 authorized servicing agent of that equipment when the maintenance or servicing
5 can best be performed by the manufacturer or authorized service agent, or when
6 such a contract would otherwise be advantageous to the state.

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

12 a-(1) Emergency purchases made under this subsection must treat all bidders
13 fairly and promote competition as is practicable under the circumstances;

14 b-(2) The procurement file must contain a written determination of:

15 (1)(a) The basis for the emergency; and

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

17 e-(3) If the emergency circumstances warrant a noncompetitive purchase, the
18 office of management and budget or the purchasing agency shall document
19 within the procurement file a written determination of the basis for the
20 noncompetitive purchase, including the circumstances that justified the
21 noncompetitive purchase.

22 d-(4) If the emergency purchase is subject to federal funding reimbursement, the
23 office of management and budget or the purchasing agency shall ensure the
24 procurement procedures and documentation are adequate to satisfy
25 requirements for federal reimbursement.

26 e-(5) If time allows, emergency purchases for commodities under this subsection
27 may require a sample for use in determining whether an offered product
28 meets specifications.

29 ~~8-h.~~ Commodities and services costing less than a specified amount as determined
30 by written directive by the director of the office of management and budget.

- 1 9-i. Specified commodities and services as determined by written directive by the
2 director of the office of management and budget.
- 3 ~~40~~-j. Employee benefit services, trust-related services, and investment management
4 services obtained by an agency with a fiduciary responsibility regarding those
5 services. Nothing in this subsection may be construed to allow an agency to
6 create or renew a contract perpetually and without limitation.
- 7 ~~44~~-k. Services to extract, tow, store, and dispose of abandoned or submerged vehicles
8 as defined in chapter 23.1-15.
- 9 ~~42~~-l. Contracts by the agriculture commissioner for agricultural market news services
10 under cooperative agreements with the United States department of agriculture,
11 ombudsmen for pipeline restoration under section 4.1-01-17, environmental
12 impact mitigation services under section 4.1-01-21.1, ombudsmen for wind
13 property issues under section 4.1-01-23, weed control inspection agents under
14 section 4.1-14-02, and hemp testing under section 4.1-18.1-04.2.
- 15 ~~43~~-m. Contracts by the state auditor for audits of computer systems under section
16 54-10-29.
- 17 ~~44~~-n. Contracts by the attorney general with experts under section 10-33-145.
- 18 ~~45~~-o. Contracts by the department of health and human services for online virtual
19 mental health and suicide prevention simulation-based training programs under
20 subsection 28 of section 50-06-05.1 and brain injury informal supports under
21 section 50-06.4-07.
- 22 p. Contracts by the North Dakota center for distance education for educational
23 content, educational technology tools, and related services for virtual delivery of
24 education to students in kindergarten through grade twelve.
- 25 2. All purchases made by the office of management and budget or a state agency or
26 institution to which authority to purchase has been delegated by the office of
27 management and budget must be made in accordance with this chapter, rules adopted
28 under this chapter, and written policies of the office of management and budget.

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

1 **54-44.6-02. Definitions.**

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

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