

Sixty-seventh  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2162

Introduced by

Senators Lee, Bekkedahl

Representatives Lefor, Monson

1 A BILL for an Act to create and enact two new sections to chapter 54-44.4 and subsection 3 of  
2 section 54-44.4-14 of the North Dakota Century Code, relating to payments for purchases,  
3 communication with elected officials, and the procurement information website; and to amend  
4 and reenact subsection 7 of section 54-44.4-02 of the North Dakota Century Code, relating to  
5 emergency purchases.

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

7 **SECTION 1.** A new section to chapter 54-44.4 of the North Dakota Century Code is created  
8 and enacted as follows:

9 **Elected officials - Bidder - Communication.**

10 The office of management and budget shall develop guidelines for a person interested in  
11 conducting business with the state. The guidelines must address communications between  
12 interested persons and purchasing agencies before, during, and after the procurement process.  
13 Procurements conducted by the office of management and budget or a purchasing agency must  
14 have a procurement officer who serves as the point of contact for all correspondence related to  
15 the procurement. A person that is interested in submitting a bid or has submitted a bid or  
16 proposal to provide commodities or services to the state in response to an active procurement  
17 should ensure all communications related to the procurement are only with the designated point  
18 of contact. This section does not restrict an interested person's communication with state  
19 officials or any member of the legislative assembly unless the state official or member of the  
20 legislative assembly is involved directly with the procurement for which the person is interested  
21 or has submitted a bid or proposal.

22 **SECTION 2. AMENDMENT.** Subsection 7 of section 54-44.4-02 of the North Dakota  
23 Century Code is amended and reenacted as follows:

- 1           7.   Emergency purchases the office of management and budget or a purchasing agency  
2                   cannot make within the required time and which involve public health or public safety,  
3                   or when immediate expenditures are necessary for repairs of state property to protect  
4                   it against further loss or damage, or to prevent or minimize serious disruption in state  
5                   services.
- 6           a.   Emergency purchases made under this subsection ~~must be made with the level-~~  
7                   ~~of~~treat all bidders fairly and promote competition as is practicable under the  
8                   circumstances, ~~and a;~~
- 9           b.   The procurement file must contain a written determination of the:  
10                   (1) The basis for the emergency; and ~~for~~  
11                   (2) The basis for the selection of the particular contractor ~~must be included in-~~  
12                   ~~the contract file.~~
- 13           c.   If the emergency circumstances warrant a noncompetitive purchase, the office of  
14                   management and budget or the purchasing agency shall document within the  
15                   procurement file a written determination of the basis for the noncompetitive  
16                   purchase, including the circumstances that justified the noncompetitive purchase.
- 17           d.   If the emergency purchase is subject to federal funding reimbursement, the office  
18                   of management and budget or the purchasing agency shall ensure the  
19                   procurement procedures and documentation are adequate to satisfy  
20                   requirements for federal reimbursement.
- 21           e.   If time allows, emergency purchases for commodities under this subsection may  
22                   require a sample for use in determining whether an offered product meets  
23                   specifications.

24           **SECTION 3.** A new section to chapter 54-44.4 of the North Dakota Century Code is created  
25 and enacted as follows:

26           **Purchases - Payment.**

27           The purchasing agency and the vendor may negotiate payment terms for all commodities  
28 and services procured. If a date for payment is not specified by the contract, payment must be  
29 made pursuant to section 13-01.1-01.

30           **SECTION 4.** Subsection 3 of section 54-44.4-14 of the North Dakota Century Code is  
31 created and enacted as follows:

1       3. The office of management and budget shall establish and maintain a standardized  
2       procedure for the submission of electronic bids and proposals through the  
3       procurement information website. The office of management and budget, in  
4       consultation with the office of the attorney general, shall develop standardized  
5       solicitation documents. The documents must be made available on the procurement  
6       information website. When drafting a solicitation, the office of management and budget  
7       and purchasing agencies shall use their best efforts to minimize the length of the  
8       solicitation by ensuring only those sections from the standardized solicitation  
9       documents applicable to the procurement are included.