

**2017 SENATE TRANSPORTATION**

**SB 2197**

# 2017 SENATE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Lewis and Clark Room, State Capitol

SB 2197  
1/19/2017  
27113

- Subcommittee  
 Conference Committee

Committee Clerk Signature *Mary Munder*

## Explanation or reason for introduction of bill/resolution:

Relating to highway improvement contracts to be advertised; and relating to contracts for road construction

## Minutes:

**Chairman Laffen:** We will call the committee back to order and open the hearing on SB 2197. Welcome Senator Robert Erbele.

**Senator Erbele:** Good morning I am the Senator from District 28 and I would like to introduce SB 2197. This bill came out of a five county meeting that was held in my district last fall. One of the issues that came up was the increase in prices on the machinery and on the construction and this bill is to bring some clarity as to what they can do. Like in section one, on highway improvement, if they exceed \$100,000. they need to advertise for two weeks in the paper. If the projects are between \$50,000 and \$100,000 they must, if possible, seek two other contractors. The subsection two is just about the advertising of the bill. This is just a simple bill to bring some clarity as to what the counties want to do in terms of the roads and machinery purchases to make it current with what they are doing out there. I will be happy to answer any questions and to refer it to Aaron Birst for any greater detail on it.

**Chairman Laffen:** Senator Nelson.

**Senator Nelson:** Mr. Chairman, I am going to ask him a question from the last bill. Your five counties, are they all in the same time zone?

**Senator Erbele:** Yes.

**Senator Nelson:** Good.

**Chairman Laffen:** Any other questions? None.

**Aaron Birst, Association of Counties:** This bill does not look to be too controversial. It does not change big thresholds or does not change advertising. It does make one substantive change in the law. I do not have written testimony, I will submit it later, I am just behind and

I apologize for that. On section two on the opening of the bids, that is a substantive change which is currently the practice. If you look at the 48 code for vertical construction. What usually happens when you submit bids is the county or city auditor opens the bids, gets them prepared and brings them to the commission to make their determination. That is basically the practice now. Technically the law says you open the bids at the commission meeting which is a good thing too. What we are suggesting is that the government's chief executive would be able to open the bids after the bids have closed so there is no way there could be any fraud. This is the change but it is still consistent with the practice. I will be happy to discuss this further, too. The other portion of the bill section one amendment in the section three repealed are more technical corrections. Last session there were a number of bidding bills and in the process of combining them I feel that one of the bills referred to a section of the law that was essentially repealed, and here's where it is. If you go to section three the section 24054.2, that was contracts to be advertised for road construction. For road construction projects over \$100,000 you need to advertise and provide by section 111126 and 111127. That is the current law. However, as I mentioned last session that was changed so now when you look at 111126 it says when board shall advertise for bids for fuel. It says anytime the fuel exceeds \$4000., the board of county commissions shall seek a bid by telephone solicitation from two suppliers or by advertising for at least once a week for two consecutive weeks. So when the counties were looking at this to bid roads they would look at the 111126 and say I can call on the phone now? We don't want people to call on the phone for bids for hire projects. This is what I drafted; I took repealed 24054.2 and combined it with 240504 which is the section one amendment. So the language that is brand new in subsection one, is basically the repealed statute. So now it is clear that counties must advertise at least once a week for two consecutive weeks. It is clear now that you must bid a highway project for two weeks. So there is no confusion with fuel bids and that is why it was repealed 240504. We just wanted to clarify this and it is consistent with how it has always been and will continue to be. I will stand for any questions.

**Chairman Laffen:** I have two questions. In bidding vertical construction there is also a requirement that the bid period is three weeks. The statute says you only have to advertise two times in the paper so technically that could be a seven day bid period. Is that ok with the county?

**Aaron Birst:** Here is the easy answer to all of this. The bidding statutes are very difficult to comprehend; there is 92 bidding statutes that the county has to comply with and they are spread throughout the chapters. As long as you have informed the newspaper it is up to them how to run those ads. Vertical construction has always been three weeks. For highway construction projects it has to be two consecutive weeks.

**Chairman Laffen:** My second question relates to the biggest change in how you open bids. I just read it the way it is currently that the bids have to be opened in a public bid opening at which time bids are opened and read aloud. To me this is a change in that public process and not in a public bid opening anymore the way you have it written.

**Aaron Birst:** Technically the law says that the time and place specified in the notice a governing body shall publically open and read. In practice the auditor at the time right before the meeting will open bids and organize them to present to the governing body. Technically we are not complying with this as the governing body is not opening the bid, the chief

executive is opening the bids and presenting them to the governing body and it is still done in public.

**Chairman Laffen:** I would argue that and say your practice is wrong.

**Aaron Birst:** You could very much say that. It got me a bit nervous as it is the current practice. It is still done in public but the executive is opening them first.

**Chairman Laffen:** I am not familiar with how the county does it. In my practice of vertical construction everybody does it the same way. There is a time before the meeting where somebody with authority in the governing body hits the gavel at the 2:00 hour and they are each opened and read with everyone in the audience so everyone has an open record of what was the bid. What I am nervous about in this language is that time certain goes away, there is nobody in the public, they are sort of assembled which means there is an opportunity for anybody to sneak another bid in there after seeing them all. In my mind it opens up a "Pandora's Box" of potential issues when they are not read publically at that one minute.

**Aaron Birst:** I understand where you are coming from and not to disagree with you but that's why the extra language is in there that the public opening by the chief executive can't be done until the board term has expired. It is confidential, so in theory Jan. 1<sup>st</sup> the bids are closed, Jan 2<sup>nd</sup> is the county commission meeting, the chief executive could open it up as the commissioners are coming in and they could put it all out and say here is the process. But if this is a concern of yours, which is a legitimate concern, I would say just remove that section two and keep the rest of the bill.

**Chairman Laffen:** Again I will come back and say it is in practice not being executed correctly. The words, "the governing body shall open publically and read aloud" is the key ingredient there that keeps everything above the table. There is no opportunity for any bid shopping, extra bids submitted, or any of that because everybody in the room at that minute was able to see the open record.

**Aaron Birst:** I see where you are coming from and I think we would be all right but I respect your judgement on that too.

**Chairman Laffen:** Committee, any questions for Mr. Birst.

**Senator Rust:** I would like to see your written testimony.

**Aaron Birst:** I absolutely will do that.

**Senator Clemens:** What is the main reason for the bids to be so organized? Is there a time issue?

**Aaron Birst:** In essence it is a time factor. It's not only the opening of the bids. There is making sure the bidders bond has been submitted, making sure all the documents are put together, which in small projects it's not a big deal, but in a large project you can have 10, 30, 40 pages of contract and it all has to be put in order and then they can submit it, again in public. Nothing is public until it is all organized and ready to go.

**Senator Clemens:** So these bids would be opened before hand so you would have time to check out the bonding and all this. It would have to be done before the meeting.

**Aaron Birst:** That would be correct.

**Senator Nelson:** If you wait till the end and if you had 3 or 4 bid envelopes to open and one person is going to open them all, should he/she have a checklist with all the stuff you need with the bid? Isn't that wasting the commissioners time while they are all waiting for all these things to be checked off to see if they are legal or maybe they are all illegal.

**Aaron Birst:** That is kind of the thought process behind this. It helps the meeting to run more smoothly so it is organized.

**Chairman Laffen:** The bids are not opened at a commissioners meeting. They are opened at 2:00 that same day as a meeting or maybe a day or week before. There is a designated time when the bids are publically opened, publically read, and then it's all above the table, all the contractors know each other's bids. Then the auditor takes that information and puts a bid tab together, takes the information to the meeting and puts it on the table before the commissioners. That's how it typically works.

**Aaron Birst:** We are willing to work with you however we can. We are not trying to get out of opening the bids publically.

**Senator Nelson:** I see a governing body shall open and then I see a chief executive shall open. That to me means an extra meeting.

**Aaron Birst:** Yes we could work with having the chief executive open with a public meeting the same day. Don't get me wrong it is not our intention of not opening publically.

**Chairman Laffen:** If I could again explainto Senator Nelson bid openings are never held at the commissioner's rooms. They are a big event with lots of people there. They are held at a different time. The governing body opens the bid by their own employee that holds the bid opening. The commission meeting might be two weeks away yet, but they will assemble all the bid tab and information and then it is presented to the governing body to deal with. It is not an official meeting of the governing body but it is held by the governing body.

**Senator Nelson:** So the sentence they want in there is for?

**Chairman Laffen:** The organizing of the public opening. The key issue is for no bad actors to get in. When they are opened, they are read and those 100 people are there to hear all the bids. There is never an opportunity for someone to come back behind the scenes and say "I don't believe that bid got there in time" or "I don't believe that was really a bid". That's all taken out by this public process.

**Aaron Birst:** Did I say I wrote this bill? Maybe this can be a simple fix by saying the governing body or their designee and leave everything the same to try to make what is going on in practice consistant.

**Senator Rust:** It has been settled but I would like to see where the opening would be in the public eye and not by one person as "stuff" can happen. However you need to change it, it has to be in public.

**Senator Clemens:** How many counties are in the association?

Aaron Birst: All 53.

Any more testimony in favor of SB2197. None. Any opposition. None. Any neutral. None. We will close the hearing on SB 2197.

# 2017 SENATE STANDING COMMITTEE MINUTES

Transportation Committee  
Lewis and Clark Room, State Capitol

SB 2197  
1/26/2017  
27462

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Mary Munder*

## Explanation or reason for introduction of bill/resolution:

Relating to highway improvement contracts to be advertised; and relating to contracts for road construction.

## Minutes:

Attachment 1

**Chairman Laffen:** Reopened the hearing of SB 2197. This is a bill that has two parts to it.

**Senator Nelson:** It adds the repealed from 240504 and it is now in section one.

**Senator Casper:** This is the bill where the main issue was with the bidding.

**Chairman Laffen:** Correct. Section one is to do with moving a piece. The issue was that the counties believed that the language in the bill needed to be changed. I worked with Aaron Birst and we came up with an amendment. This is trying to change how the bid opening is worded. There is someone there opening the bids, not the body itself. (3:35 Chairman Laffen asked Legislative Intern Brady to explain how it was written.) See Attachment #1.

**(5:40) Senator Nelson:** My notes read the only substitute change is that section two, and that section one is basically taking 240504 out because that dealt with telephone bids for fuel. That was in the wrong section.

**Chairman Laffen:** Yes, the only change is in section two.

**Chairman Laffen:** Committee questions. None

**Senator Nelson:** I move to approve the proposed amendment.

**Senator Casper:** Seconded

**Chairman Laffen:** All in favor passed. Amendment passes and is now a part of SB 2197

**Senator Casper:** I move for a Do Pass on SB 2197 as amended.

Senate Transportation Committee  
Sb 2197  
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Page 2

**Senator Nelson: Seconded.**

**Roll Call: Yeas-6, Nays-0, Absent-0**

**Senator Laffen will carry the bill.**

January 26, 2017

ET  
1-26-17  
p. 1 of 1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2197

Page 2, line 20, after "body" insert "or its designated agent"

Page 2, line 21, overstrike "and" and insert immediately thereafter ". The governing body shall"

Page 2, remove line 22

Page 2, line 23, remove "public opening if the time to submit bids has expired and the bids remains confidential."

Renumber accordingly



Date: 1-26-17  
Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. "Enter Bill/Resolution No." 3197

Senate Transportation Committee  
 Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Casper Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Chairman Lonnie J. Laffen			Senator Carolyn Nelson		
Senator Tom Campbell					
Senator David Rust					
Senator David Clemens					
Vice Chairman Jonathan Casper					

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Laffen

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2197: Transportation Committee (Sen. Laffen, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2197 was placed on the Sixth order on the calendar.

Page 2, line 20, after "body" insert "or its designated agent"

Page 2, line 21, overstrike "and" and insert immediately thereafter ". The governing body shall"

Page 2, remove line 22

Page 2, line 23, remove "public opening if the time to submit bids has expired and the bids remains confidential."

Renumber accordingly

**2017 HOUSE TRANSPORTATION**

**SB 2197**

# 2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee  
Fort Totten Room, State Capitol

Engrossed SB 2197  
3/2/2017  
#28616

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Jeanette Cook*

## Explanation or reason for introduction of bill/resolution:

A bill relating to highway improvement contracts to be advertised; and relating to contracts for road construction.

## Minutes:

Attachment #1

**Chairman Ruby** opened the hearing on SB 2197.

**Senator Erbele, District 28**, spoke to introduce SB 2197. This bill comes to us from a meeting from a meeting of five county commissioners. It deals with the bidding and advertising of contracts.

**Aaron Birst, Legal Counsel North Dakota Association of Counties**, spoke to support SB 2197 and provided written testimony. See attachment #1, pages 1-2. Page 2 is the original bill.

**Vice Chairman Rick C. Becker**: The added language on Page 1 lines 10-16, is that language verbatim in the section that was repealed?

**Aaron Birst**: I can't say that it is absolutely the same, but yes it is the same. There is nothing of substance that is different.

**Chairman Ruby** read the section of code and confirmed that there were no substantive changes.

**Aaron Birst**: The only thing that changed in there was that we added "in the official newspaper for two weeks". The bidding statutes are a mess. We are trying to consolidate and make it more uniform.

**Chairman Ruby**: On page 2 in Section 2, you put in "or designated agent". Why is that?

**Aaron Birst**: It is a change, but not really a substantive change. The way that political subdivisions bid is: by January 13<sup>th</sup> they need to submit their bids, then that is when the bid opening will be. Technically it says the governing body opens the bids, so from a technical

standpoint that would be the commission that physically opens the bids. The reality is that everyone uses the county auditor or their city mayor to physically open it. That is why we put in that the "designated agent" will open the bid. It is a technical change.

**Chairman Ruby:** Above that, where #4 is added, is that just for clarification?

**Aaron Birst:** Yes. The 48 section is the vertical construction. It is a well-defined and well written statute, as opposed to going through code by code to decide what the process is, we thought that we would reference the 48 section where it well laid out. It is trying to push everything together for a uniform process.

Discussion on sections that were deleted and reinserted for clarification.

**Chairman Ruby:** The line was left off that stated: "The first publication shall be made at least 15 days before the day set for the opening of the bid."

**Aaron Birst:** If you feel that line should be in, that is fine with us. We are advertising it for two weeks, so you can't take the bid before two weeks. If you want to make it 15 days before, that would be fine.

**Chairman Ruby:** It might be because some of the papers are weekly and not daily, so that includes the weekly papers.

**Aaron Birst:** As it reads right now, there is **no** reference to any advertisement. We are trying to put that back in to make sure it does get advertised.

**Vice Chairman Rick C. Becker:** For clarification, the way the bill would read, the first newspaper ad for bids could be anywhere from 7-8 days to 14 days. If the weekly happens to fall on the day it is due or the day before, then you go one week out for two successive weeks, you are looking at eight days. The question would be, is eight days too short?

**Chairman Ruby:** On large projects that could be.

**Aaron Birst:** The reality is on large projects we are already doing more than what this requires, so we thought this was a technical correction. On a million dollar overlay project, they are not only advertising, but reaching out to vendors to get them to come. Competitive bidding is good for tax payers. We just wanted to insert the language to make sure we were back to where we were in 2015. That can be adjusted.

**Chairman Ruby:** We have had a lot of discussion about the fact that few people read the newspaper anymore. There are other places that people get their news.

**Aaron Birst:** That is a good point. This is larger than the bill itself, but the reality is nobody is reading the newspaper for the bidding process anymore. All the bids are basically through trade publications or counties are publishing them online.

There was no further support for SB 2197.

There was no opposition on SB 2197.

The hearing was closed on SB 2197.

**Chairman Ruby:** Do we want to put that other line back in so that it is publicized at least 15 days before?

**Representative Paur moved the amendment to add the line back in: "The first publication shall be made at least 15 days before the day set for the opening of the bid."**

**Representative Jones seconded the motion.  
A voice vote was taken. The motion carried.**

**Representative Weisz:** It is in the county's best interest to get the most competitive bid possible. We don't have to dictate where they advertise. I don't see the need to even put in the 15 days.

**Representative Jones:** We could add a simple amendment: ...they need to advertise once for two weeks in the official newspaper of the county, and any other newspaper (add: or medium) as the board deems advisable. That would open the door to advertise through any medium, such as electronic means, etc.

**Vice Chairman Rick C. Becker:** I don't think I would add anything else. We are adding in newspapers, when we are all agreeing that it is on its way out. We can put it in there, but we need to move forward, as Mr. Birst said earlier, with a study. We should just get rid of all of the publication/newspaper requirements and have something like a centralized clearing house bulletin board for all bids of all types. We need to fix this, hopefully, next session.

**Chairman Ruby:** I agree, because things are changing.

**Representative Nelson:** The North Dakota Newspaper Association does have on their website a place to go and search the statewide classifieds. If you provide gravel, you can enter the word gravel, and it will give you a list of all of the ads looking for gravel in North Dakota.

**Representative Jones:** There are other organizations that do that as well. The Associated General Contractors is one.

**Vice Chairman Rick C. Becker moved a DO PASS as amended on SB 2197.  
Representative Grueneich seconded the motion.**

**A roll call vote was taken on SB 2197: Aye 12 Nay 1 Absent 1  
The motion carried.**

**Representative Paur will carry SB 2197.**

3/3/17 DE

17.0698.02002  
Title.04000

Adopted by the Transportation Committee

March 3, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2197

Page 1, line 13, after the underscored period insert "The first publication must be made at least fifteen days before the day set for the opening of the bids."

Page 1, line 22, after the period insert "The first publication must be made at least fifteen days before the day set for the opening of the bids."

Renumber accordingly

Date: 3-2-17  
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2197**

House Transportation Committee

Subcommittee

Amendment LC# or Description: 17,0698.02002

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:     Reconsider     \_\_\_\_\_

Motion Made By Paur    Seconded By Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Gretchen Dobervich		
Vice Chair. Rick C. Becker			Rep. Marvin Nelson		
Rep. Bert Anderson					
Rep. Jim Grueneich					
Rep. Terry Jones					
Rep. Emily O'Brien					
Rep. Mark Owens					
Rep. Gary Paur					
Rep. Randy Schobinger					
Rep. Gary Sukut					
Rep. Robin Weisz					
Rep. Greg Westlind					

*voice vote*  
*Motion Carried*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Add: Page 1 Line 13. -  
 - the first publication shall ... 15 days.*

Date: 3-2-17  
 Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2197**

House Transportation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Becker Seconded By Grueneich

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Gretchen Dobervich	✓	
Vice Chair. Rick C. Becker	✓		Rep. Marvin Nelson	✓	
Rep. Bert Anderson	✓				
Rep. Jim Grueneich	✓				
Rep. Terry Jones	✓				
Rep. Emily O'Brien	A				
Rep. Mark Owens		✓			
Rep. Gary Paur	✓				
Rep. Randy Schobinger	✓				
Rep. Gary Sukut	✓				
Rep. Robin Weisz	✓				
Rep. Greg Westlind	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Paur

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2197, as engrossed: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2197 was placed on the Sixth order on the calendar.

Page 1, line 13, after the underscored period insert "The first publication must be made at least fifteen days before the day set for the opening of the bids."

Page 1, line 22, after the period insert "The first publication must be made at least fifteen days before the day set for the opening of the bids."

Renumber accordingly

2017 TESTIMONY

SB 2197

Attachment #1 pg. 1

1-26-17

SB 2197

DRAFT PROPOSED AMENDMENTS TO SB 2197

(Prepared by Legislative Intern Brady Pelton for Senator Laffen)

Page 2, line 20, after "body" insert "or its designated agent"

Page 2, line 21, overstrike "and"

Page 2, line 21, after "and" insert ". The governing body shall"

Page 2, line 22, remove "The government body's chief administrative agent may open and organize bids before the"

Page 2, line 23, remove "public opening if the time to submit bids has expired and the bids remains confidential."

Renumber accordingly

HB 2197  
3-2-17  
#1  
Page 1

Testimony to the  
**House Transportation Committee**  
Prepared March 2, 2017  
by Aaron Birst, Legal Counsel  
North Dakota Association of Counties

**Regarding: SB 2197**

Chairman Ruby and Committee Members,

My name is Aaron Birst and I represent the North Dakota Association of Counties. We support SB 2197 which is essentially a clean-up bill from last session.

Last session there were a number of bills dealing with competitive bidding. In particular HB 1182 was very helpful however it also inadvertently deleted some language that is cross referenced in other statutes in which counties rely on for guidance on their advertising requirements.

NDCC 24-05-04 indicates counties need to advertise road construction "as provided by law for the purchase of county supplies." The "County Supplies" section is NDCC 11-11-26 which prior to 2015 indicated bids must be advertised for two successive weeks in the official newspaper. However, as you can see from the attached bill, that time period was inadvertently removed. SB 2197 seeks to put that language back into the statute. As opposed to reinserting that removed language back into 11-11-26 it appear much more efficient to directly insert that requirement into 24-05-04. Additionally, as opposed to reinserting that language into a number of statutes, the bill was drafted to consolidate both 24-05-04 and 24-05-04.2 which is why section 3 of this bill contains a repealed section. So although NDCC 24-05-04.2 is repealed under this bill, the content is reinserted in 24-05-04.

Additionally, this bill contains a clarification to bidding practices. That clarification is found in section 2 which is simply the governing body may have a designated agent open the bids as opposed to the governing body themselves opening the bid. Under the law a governing body must open the bid but in practice all boards rely on a bid opening process in which the executive of the entity opens the bids and organizes them for the board to ultimately decide which one to pick.

This bill had no opposition on the Senate side and passed unanimously and we are asking you to also approve this bill to bring some additional clarity to the bidding process.

Thank you

Sixty-fourth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1182  
(Representatives Mooney, Kelsh, J. Nelson, M. Nelson, Owens)  
(Senators Bowman, Sinner, Sorvaag)

AN ACT to amend and reenact sections 11-11-26 and 11-11-27 of the North Dakota Century Code, relating to bidding requirements for public purchases; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-11-26 of the North Dakota Century Code is amended and reenacted as follows:

11-11-26. When board shall advertise for bids for fuel.

~~Except as provided in chapter 48-01.2, when the amount to be paid during the current year for the erection of county buildings or for election ballots and supplies exceeds ten thousand dollars, the board of county commissioners shall cause an advertisement for bids to be published at least once each week for two successive weeks in the official newspaper of the county and in such other newspapers as it shall deem advisable. The first publication shall be made at least fifteen days before the day set for the opening of the bids. For the purchase of fuel when the amount exceeds four thousand dollars, the board of county commissioners shall seek bids either by telephone solicitation from at least two suppliers, or by an advertisement for bids to be published at least once each week for two successive weeks in the official newspaper of the county and in other newspapers as the board deems advisable.~~

SECTION 2. AMENDMENT. Section 11-11-27 of the North Dakota Century Code is amended and reenacted as follows:

11-11-27. Contents of fuel bids advertisement - When bids may be opened - Lowest bidder accepted.

~~The advertisement shall must state what supplies are type of fuel is required or where the plans and specifications may be examined, the time allowed for the completion of the examination, and when the bids will be opened and passed upon by the board of county commissioners. The bids may be opened and passed upon at a regular or adjourned session of the board, or at a meeting called by the county auditor as provided in section 11-11-05. The bid of the lowest responsible bidder shall must be accepted, but the board shall have power to may reject any or all bids.~~

SECTION 3. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying public improvement issues relating to use of multiple bids versus single prime bids, bidding thresholds, design services thresholds, and indemnification. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.