

2011 SENATE TRANSPORTATION

SB 2175

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SB 2175
January 21, 2011
13200 & 13200

Conference Committee

Harrel

Explanation or reason for introduction of bill/resolution:

Minutes:

Attached testimonies

Vice Chairman Senator Oehlke opened the hearing on SB 2175 relating to prequalification and selection of consultants by the department of transportation.

Senator G. Lee, District 22 introduced the bill and testified in support of it. Written testimony #1

Senator Oehlke said that he mentioned inflation and he asked Senator Lee when these figures were last changed.

Senator Lee said he thought it was 2005.

Senator Nodland asked if they were having trouble finding consultants or if the needs were growing.

Senator Lee didn't know if they were having trouble finding consultants but this would expedite the process in terms of moving the dollar limits up. Presently, they have to go through the process with such low limits and so they have to go through the process more frequently.

Dain Miller, PE testified on behalf of ND Chapter of American Council of Engineering Companies (ACEC) in support of SB 2175. Written testimony #2

Senator Mathern asked if he was a registered lobbyist for this group.

Mr. Miller said he was not. He said he was representing a member firm of the American Council of Engineering Companies.

Senator Mathern asked if he had the authority to speak for this group.

Mr. Miller said the Executive committee of the ACEC had asked him to testify on their behalf.

Senator Mathern said that assuming we make this change how do you see the department assuring the tax payers that they get the best price for these consultant contracts?

Mr. Miller said that price is never the first criteria. It is based on qualifications and after the department looks at which firms they want to select, then they go into negotiations with consultants.

Ron Henke, Project Development Director for the North Dakota Department of Transportation testified in support of SB 2175. Written testimony #3

Senator Nodland asked why the NDDOT uses consultants. Is it because of the workload or their expertise qualifications?

Mr. Henke said that they used them for both those criteria's.

Senator Nodland asked if the demand for consultants was increasing because of the demands for road construction.

Mr. Henke said they will probably increase but stay consistent for sure. He said when they can't get the work done they outsource to consultants.

Senator Nodland asked about the increase in dollar amounts.

Mr. Henke said that the increased cost is due to the cost of doing business and it has gone up. He said that since he has been director at project development for four years he has only seen the department use the process for less than the \$25,000 amount, once.

Senator Oehlke asked about emergencies and if that is something a consultant is called in on.

Mr. Henke answered that it all depends on the situation.

Senator Mathern asked about the A through G list and if they do that process on all projects.

Mr. Henke answered that on projects less than \$100,000 they use pre-qualified firms. Bigger jobs are very formal and detailed. Mr. Henke explained the entire process for pre-qualified and also the process on bigger projects.

No opposing testimony.

Senator Lee closed the hearing on SB 2175.

SB 2175, Job # 13201

Senator Sitte moved a Do Pass on SB 2175.

Senator Nodland seconded the motion.

Roll call vote: 5-0-1. Motion Passed

Senator Oehlke is the carrier.

Date: 1-21-2011
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2175

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Sitte Seconded By Senator Nodland

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething					
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

SB 2175: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2175 was placed on the
Eleventh order on the calendar.

2011 HOUSE TRANSPORTATION

SB 2175

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2175
03/17/2011
Job # 15580

Conference Committee

Committee Clerk Signature *Janette Cook*

Explanation or reason for introduction of bill/resolution:

SB 2175 is a bill relating to prequalification and selection of consultants by the Department of Transportation.

Minutes:

Attachment #1 and #2

Gary Lee, District 22, introduced SB 2175 and spoke to support the bill. He explained that the Department of Transportation needs an efficient and effective process in order to secure qualified professionals in order to complete the work and projects that they have to do in a timely manner. The process needs to be fair, understandable, and transparent. The changes and new language requested in this bill seek to engage in that type of methodology. The increased dollar limits requested in Section 2 of the bill, principally are a function of inflation. The costs of materials and product for roads have increased dramatically over time. Short time lines are often a reality for these projects, and a more expeditious time line in advertising for consultant selection is recommended in Sections B and C. The bill doesn't change the current qualification base selection of consultants, nor does it change the opportunities based on company size. He feels that it is a good bill in terms of process, making a good process better, and in terms of meeting project needs for the Department of Transportation.

Dain Miller, PE-- on behalf of North Dakota Chapter of American Council of Engineering Companies (ACEC), spoke in support of SB 2175 on behalf of the North Dakota Chapter of American Council of Engineering Companies. He provided written testimony. See attachment #1.

Chairman Ruby: Is this for the project cost, not necessarily the consultant fees?

Dain Miller: It is specific to consultant fees, not construction costs.

Chairman Ruby: How expensive would some of these projects be to require a consultant to come in?

Dain Miller: An example would be in pothole region in the Valley City area. There are roads that have water eroding away the shoulders, and they need to do grade raises there. When we were out there looking at them, the Department of Transportation had

maintenance crews out there battling it. Those projects cost up to a half a million dollars in construction terms and higher. Some of those grade raises are up to 15 feet. They are big projects.

Chairman Ruby: So, what does the consultant do? Do they do the bids, make sure that the design is correct, or what does the consultant do?

Dain Miller: The consultants get on board to prepare all the necessary environmental documentation and preliminary engineering that has to be put together. The department calls that, the project concept report phase. Once the department agrees to what the solution should be, they go ahead and move forward with contracts, usually with the same consultant, to put together the plans that will eventually go out for contractors to bid on.

Chairman Ruby: On page 1 line 11, what is the importance of the financial status of a consultant?

Dain Miller: I suppose they would want to know if the financial history of a consultant. A lot of it is more on a prequalified based. Some of the financial status might also be related to the fact that they audit yearly the engineering firms' business.

Chairman Ruby: On page 2 line 13, if you are a new consultant, how do you do that?

Dain Miller: They look at previous experience at other firms, maybe if someone has worked for other individuals or in another state.

Ron Henke, PE, Project Development Director for the North Dakota Department of Transportation, spoke to support SB 2175 and provided written testimony. See attachment # 2.

Chairman Ruby: Aren't you getting any consultants that you can negotiate with immediately without the waiting period?

Ron Henke: Of what I have been involved with in the last four or five years, I am only aware of one contract that we have been able to get underway under the \$25,000 amount.

Chairman Ruby: This is new language about combining them. Is this something that is current practice or will it be a big change for the department?

Ron Henke: We have practiced this, especially when we deal with construction engineering. There are a lot of projects that we have to get out in a short period. The work activities are very similar. They are construction inspection, construction survey, construction testing, or contracts. When the work is very similar, we have put them out in lump sum. There are two reasons for that. One is that we will interview the firms for the group of projects. Therefore we can select, based on one interview. If we had to go back to where it would be one project per solicitation, the firms would have to come in for every project. Sometimes we will put 15 to 20 projects in one lump sum. We interviewed once for all those projects and then made our selection based off of that. We select based on qualifications, not specific to each project.

Chairman Ruby: When you break it down into individual ones, not one large project, could you potentially have everyone come immediately without having the waiting period? Currently now, are you having to lump it into one project or what?

Ron Henke: The department prefers the twenty-one day advertising because it gives other firms that are newer or have a new approach, time to present some information to us. There are times when we have had error projects or emergency projects, those are the types of projects that we are looking to go out and hire the prequalified firms and get them on board. If we put out a group of projects, then the largest project would have a consultant estimating fee greater than \$300,000 dollars, the whole group would go out as twenty-one days.

Representative Delmore: As we look at this one, the third paragraph from the bottom, you said that in 2010 you had 148 contracts. Sixty of them aren't accounted for there. Did you not contract for those?

Ron Henke: The other sixty had a consultant fee greater than \$300,000.

Representative Frantsvog: Do you know how many consultant firms there are in North Dakota?

Ron Henke: I do not know.

Representative Frantsvog: Do you sometimes use firms that are not from North Dakota?

Ron Henke: Out-of-state firms are able to put in an RFB to be considered. We base our selection off of the criteria that I identified before. Sometimes we do get projects that are very complicated, and maybe our internal consultant firms do not have the expertise that is needed. In that case we would look to outsource that work to whoever could do it.

Chairman Ruby: Are the fees generally a percentage of the bid?

Ron Henke: We keep records of what the average consultant fees are. They range between 6% to 10% of the overall cost of the project. That is how we go about trying to determine how they fit in.

Representative Owens: For clarification, when you are talking about consultants and consultant fees and this process, it is not really just about construction. It is about all work that the Department of Transportation does. It could be studies, transit work, or information technology. Having that predetermined list saves you several weeks and a lot of man powers in determining ... you have a list of trusted consultants that you can go to. You also have the dollar amounts, so sometimes the dollar amounts aren't based on a percentage of the construction project, but based on the cost of the ... The term consultant has a wide range once you leave the construction world. Is it not true that it is not just construction that we are dealing with here?

Ron Henke: The section of law that we are changing deals with consultants that are either engineering, land surveying, architectural, or traffic safety, and it deals more with the engineering and architect. This part does not cover IT stuff because it is not an engineering or architectural based work product.

There was no further support for SB 2175.

There was no opposition to SB 2175.

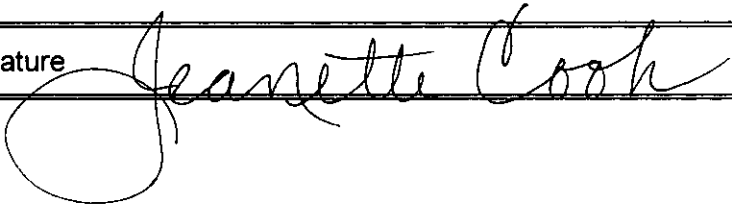
The hearing was closed on SB 2175.

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2175
03/17/2011
Job # 15628

Conference Committee

Committee Clerk Signature 

Minutes:

Chairman Ruby brought SB 2175 before the committee.

Representative Weisz moved a DO PASS on SB 2175.

Representative Gruchalla seconded the motion.

A roll call vote was taken on SB 2175. Aye 13 Nay 0 Absent 1

The motion carried.

Representative Vigesaa will carry SB 2175.

Date: 3-17-11

Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2175

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Weisz Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla	X	
Representative Frantsvog	X		Representative Hogan	X	
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigessaa	X				
Representative Weisz	X				

Total (Yes) 13 No 0

Absent _____

Floor Assignment Vigessaa

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

REPORT OF STANDING COMMITTEE

SB 2175: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2175 was placed on the
Fourteenth order on the calendar.

2011 TESTIMONY

SB 2175

1

SB 2175 –Related To Prequalification & Selection Of Consultants For The DOT.

Transportation – Lewis & Clark 10:15 AM, 1/21/11

Good Morning! Mr. Vice Chair & Members of the Committee, I am Gary A. Lee Senator from District 22.

The Department of Transportation needs an efficient & effective process in order to secure qualified professionals to complete work & projects in a timely manner. The parameters & process to complete the immense amount of work being requested needs to be fair, understood & transparent.

The changes & new language requested in SB 2175 seek to engage in that type of methodology. The increased dollar limits requested in sub-sections a, b, & c of Section 2 is principally a function of inflation. The cost of product & materials for road work has increased dramatically. The \$100 bill now seems to be the new \$10.

Short time lines are often a reality for road projects. A more expeditious timeline in advertising for consultant selection is recommended in sub-sections b & c. The 21 day advertising period is changed to 7 days within the dollar limits from \$25,000 to \$100,000 & between \$100,000 & \$300,000.

The bill would not change the current qualification-based selection of consultants. Nor does it change the opportunities based on Company size.

The Bill looks to make a pretty good process better, in terms of meeting project needs for the DOT. I ask you to consider the discussion & then give a favorable recommendation of SB 2175.

**SENATE TRANSPORTATION COMMITTEE
January 21, 2011 – 10:15 a.m. – Lewis and Clark Room**

Testimonial in Support of SB2175

**Dain Miller, PE - On Behalf of
ND Chapter of American Council of Engineering Companies (ACEC)**

Members of the Senate Transportation Committee, thank you for the opportunity to discuss SB 2175. My name is Dain Miller; I am one of the Principal owners of a small consulting firm located in North Dakota currently doing business as Apex Engineering Group, Inc. Our firm is very familiar with how consulting engineering services are procured with the Department of Transportation. I am here today to speak on behalf of the member firms of the ND Chapter of American Council of Engineering Companies (ACEC). ACEC/ND has a Liaison Committee that works closely with Department of Transportation and we support SB 2175 and the proposed changes to Chapter 24 of the Century Code, in particular Section 24-02-07.3.

I would first like to state that there is nothing wrong with the intent and purpose of Section 24-02-07.3 as it is written today. It recognizes the importance of Qualification Based Selection (QBS) criteria for the selection of consultants and it provides a mechanism for the Department of Transportation to procure professional consulting services when the need may arise to expedite the selection process.

Examples of current or recent project types where expediting the selection process of consultants may benefit the public include:

- Emergency Repair or Maintenance Projects (similar to those occurring on the highways in the Devils Lake area)
- Stimulus Funded Projects
- Highway Rehabilitation Projects involving upgrades to pavements and safety standards (similar to those needed on the highways in the oil producing areas of the state)
- There may be periods when the Department experiences an increase in viable projects which are more typical in nature and there is simply a need to procure the services of consultants on multiple projects in a short amount of time.

The proposed changes to this law are really focused on two areas:

1. The first piece deals with increasing the consultant fee amounts in Subsection 2, Subdivisions a, b and c to better fit what it typically requires for consultants to provide services on projects the DOT needs help with.

The problem with the current law is that the dollar amount thresholds that currently exist within Subsection 2 - Subdivisions a, b and c are somewhat antiquated and are no longer practical in today's market. The existing fee threshold amounts make it difficult for the Department of Transportation to utilize the intent of the law when it is needed the most. The attached tables to this testimonial summarize the existing and proposed consultant fee threshold changes to Subsection 2.

2. The second piece simply clarifies the Department's desire to solicit consultant services on more than one project within one solicitation. This language clarification is shown on lines 1-4 in Subsection 3, page 3 of SB 2175.

Implementing these changes through SB 2175 will:

- Provide more flexibility for the DOT to engage consultants when time is of the essence.
- Decrease the delays in the selection process which will allow more time to be spent solving the challenges on the state's highway system.
- Minimize the costs and resources associated with preparing responses to proposals and interviewing consultants. Ultimately this benefits the Department, the consultants and indirectly the tax payers of the state and the users of the state's highway system.
- Continues to protect the integrity of the Qualification Based Selection process.

I would be happy to answer any questions at this time. Thank you.

Summary of Proposed Changes to Subsection 2

Subdivision a:

	Max Single Contract Amount	Total Max Fees in 12 month Period	Procurement Method	Consultant Response Time
Current Law	\$25,000 or Less	\$50,000	Direct Negotiation	Immediate
Proposed Change	\$100,000 or Less	\$200,000	Direct Negotiation	Immediate

Subdivision b:

	Consultant Fee Minimum	Consultant Fee Maximum	Procurement Method	Consultant Response Time
Current Law	Greater than \$25,000	\$100,000	Proposal and Interviews	7-Days
Proposed Change	Greater than \$100,000	\$300,000	Proposal and Interviews	7-Days

Subdivision c:

	Consultant Fee Minimum	Consultant Fee Maximum	Procurement Method	Consultant Response Time
Current Law	Greater than \$100,000	None set	Proposal and Interviews	21-Days
Proposed Change	Greater than \$300,000	None Set	Proposal and Interviews	21-Days

SENATE TRANSPORTATION COMMITTEE
January 21, 2011 – 10:15 a.m. – Lewis and Clark Room

North Dakota Department of Transportation
Ron Henke, P.E., Project Development Director

SB 2175

Members of the committee, my name is Ron Henke and I serve as Project Development Director for the North Dakota Department of Transportation (NDDOT). I'm here today to support SB 2175.

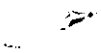
Today's process of securing consultant services is a qualification based process, where a selection committee takes into account the following criteria when consultants are interviewed:

- a. Past performance.
- b. The ability of professional personnel.
- c. Willingness to meet time and budget requirements.
- d. Location.
- e. Recent, current, and projected workloads of the persons or firms.
- f. Related experience on similar projects.
- g. Recent and current work for the agency.

Based upon these criteria, the agency selection committee selects the three which, in its judgment, are most qualified, ranking the three in priority order and indicates which firm the DOT should enter into negotiations with. SB 2175 does not make any changes to the selection criteria or process.

What SB 2175 does change is the dollar limitation when the Department can direct negotiate with consultants. Current law allows the Department to direct select consultants on projects where the anticipated consultant fee will not exceed \$25,000 with the limitation that firms can secure no more than \$50,000 in consultant fees from the direct selection process in a twelve month period. SB 2175 adjusts these amounts to \$100,000 with a limitation of \$200,000 in consultant fees from the direct selection process in a twelve month period.

SB 2175 also would change the dollar limitation when the Department can adjust the advertising period from 21 days down to seven days. Current law allows the 21 day advertisement period to be adjusted down to seven days for projects with estimated consultant costs between \$25,000 and \$100,000. SB 2175 adjusts these amounts to \$100,000 and \$300,000 respectively.





In addition, SB 2175 clarifies that the Department can solicit for consultant services on more than one project within one solicitation. This is shown on lines 1 thru 4 on page 3 of the bill.

If we look back to 2010, of the approximately 148 contracts for consultant services, the DOT had approximately 33 projects that would meet the criteria of less than \$100,000 and 55 projects that would meet the criteria of \$100,000 to \$300,000.

When unique events occur that affect North Dakota's highway system, the DOT needs the ability to obtain qualified consultants quickly. As a result we support SB 2175.

I would be happy to answer any questions at this time. Thank you.



1

TESTIMONIAL IN SUPPORT OF SB2175
ND House of Representatives - Transportation Committee
March 17, 2011
10:00 a.m. – Fort Totten Room

From: Dain Miller, PE –
On Behalf of
ND Chapter of American Council of Engineering Companies (ACEC)

Chairman Ruby and Members of the House Transportation Committee, thank you for the opportunity to discuss SB 2175. My name is Dain Miller; I am a Principal owner of a small consulting engineering firm located in North Dakota. I would like to begin with the fact that I am not here to speak on behalf of just my firm. I was given the opportunity to come here and speak on behalf of all of the member firms of the ND Chapter of American Council of Engineering Companies (ACEC/ND). Many of the member firms are very familiar with how consulting engineering services are procured with the Department of Transportation. ACEC/ND has a Liaison Committee that works closely with NDDOT upper management on many issues that affect our working relationships and how we do business. Both NDDOT and ACEC/ND support SB 2175 and the proposed changes to Chapter 24 of the Century Code, in particular Section 24-02-07.3.

Current Status of SB 2175:

The Senate Transportation Committee voted a 5-0 Do Pass Recommendation. This bill then PASSED the Senate Floor with 45 yeas and 0 nays.

Introduction (as per previous testimony):

First, we would like to reiterate that there is nothing wrong with the intent and purpose of Section 24-02-07.3 as it is written today. It recognizes the importance of Qualification Based Selection (QBS) criteria for the selection of consultants and it provides a mechanism for the Department of Transportation to procure professional consulting services when the need may arise to expedite the selection process.

The problem with the current law is that the dollar amount thresholds that currently exist within Subsection 2 - Subdivisions a, b and c are somewhat antiquated and are no longer practical in today's market due to inflation and better historical data on consulting fees. The existing fee threshold amounts make it difficult for the Department of Transportation to utilize the intent of the law when it is needed the most.

The attached tables to this testimonial summarize the existing and proposed consultant fee threshold changes to Subsection 2.

Summary of Changes in Subdivision A-C:

Subdivision a (Direct Negotiate) - The Department occasionally sees the need to get consultants on board quickly and efficiently in order to address projects that have a short timeline and typically address a public safety need. Being able to direct negotiate with prequalified firms could save up to 4-weeks if the project fits the criteria. Today the direct negotiation fee threshold on a project is \$25,000 and a maximum of \$50,000 for any one firm in a 12-month period. These amounts are low and very rarely can the engineering be completed for less than \$25,000. By increasing the threshold for fees on a project to less than \$100,000 and no more than \$200,000 total to one firm in a 12-month period allows the Department more opportunity and flexibility to actually utilize the intent of the law.

Subdivision b – Changes the consultant costs estimated to be greater than \$25,000 but less than \$100,000 to **greater than \$100,000 and less than \$300,000**. This law maintains the Department’s capabilities to contact prequalified consultants in a particular area of need and allowing 7 days to respond (standard procurement response time is 21 days as per Chapter 54-44.7).

Subdivision c – Changes the consultant costs estimated to be greater than \$100,000 to **greater than \$300,000**. This law maintains the Department’s capabilities to contact prequalified consultants in a particular area of need and allowing 21 days to respond (standard procurement response time is 21 days as per Chapter 54-44.7).

The Addition of Subsection 3:

The language added to SB 2175 shown on lines 1-4 in Subsection 3, page 3 is simply clarifying the Department’s desire to solicit consultant services on more than one project within one solicitation. (This is commonly done when the project work types are similar in nature)

Project Examples for applying this Law:

Examples of project types where expediting the selection process of consultants may benefit the public include:

- Emergency Repair or Maintenance Projects (similar to those occurring on the highways in the Devils Lake area and prairie pot hole region of SE North Dakota)
- Stimulus Funded Projects (as the state experienced in 2009 and 2010)
- Highway Rehabilitation Projects involving upgrades to pavements and safety standards (similar to those needed on the highways in the oil producing areas of the state)

Maintaining Qualification Based Selection and Audited Cost Principals:

(The following information is for those that might question if SB2175 would circumvent Qualification Based Selection and if the taxpayer is getting what they pay for.)

Consultants do not submit fee based bids for their professional services with the Department of Transportation. Engineering services are secured through a Qualification Based Selection process defined by federal law (Brooks Act) and the 7 criteria in Chapter 54-44.7-03 of the ND Century Code. Fees are then negotiated with the contracting agency (DOT) based on a detailed scope of work.

Furthermore, professional services firms providing engineering services whether funded in whole or in part with Federal-aid highway funds are performed and audited in compliance with the cost principles contained in Federal Acquisition Regulations of part 31 of title 48, Code of Federal Regulations.

Summary of Benefits of SB2175:

All of these changes through SB 2175 result in:

- Providing more flexibility for the DOT to engage consultants when time is of the essence.
- Decreasing the delays in the selection process will allow more time to be spent solving the challenges on the state's highway system.
- Minimizing the costs and resources associated with preparing responses to proposals and interviewing consultants on every project will indirectly save the taxpayers money.
 - It is not unusual for consultants to incur costs ranging from \$5,000 to \$25,000 per project just to prepare proposals and interview. The DOT also has to dedicate staff to the consultant selection process. These staff members often get pulled away from their primary functions within the Department.

Thank you for listening to this testimony, I will do my best to answer any questions you might have.

Summary of Proposed Changes to Subsection 2

Subdivision a:

	Max Single Contract Amount	Total Max Fees in 12 month Period	Procurement Method	Consultant Response Time
Current Law	\$25,000 or Less	\$50,000	Direct Negotiation	Immediate
Proposed Change	\$100,000 or Less	\$200,000	Direct Negotiation	Immediate

Subdivision b:

	Consultant Fee Minimum	Consultant Fee Maximum	Procurement Method	Consultant Response Time
Current Law	Greater than \$25,000	\$100,000	Proposal and Interviews	7-Days
Proposed Change	Greater than \$100,000	\$300,000	Proposal and Interviews	7-Days

Subdivision c:

	Consultant Fee Minimum	Consultant Fee Maximum	Procurement Method	Consultant Response Time
Current Law	Greater than \$100,000	None set	Proposal and Interviews	21-Days
Proposed Change	Greater than \$300,000	None Set	Proposal and Interviews	21-Days

#2

**HOUSE TRANSPORTATION COMMITTEE
March 17, 2011 – 10:00 a.m. – Fort Totten Room**

**North Dakota Department of Transportation
Ron Henke, P.E., Project Development Director**

SB 2175

Members of the committee, my name is Ron Henke and I serve as Project Development Director for the North Dakota Department of Transportation (NDDOT). I'm here today to support SB 2175.

Today's process of securing consultant services is a qualification based process, where a selection committee takes into account the following criteria when consultants are interviewed:

- a. Past performance.
- b. The ability of professional personnel.
- c. Willingness to meet time and budget requirements.
- d. Location.
- e. Recent, current, and projected workloads of the persons or firms.
- f. Related experience on similar projects.
- g. Recent and current work for the agency.

Based upon these criteria, the agency selection committee selects the three which, in its judgment, are most qualified, ranking the three in priority order and indicates which firm the DOT should enter into negotiations with. SB 2175 does not make any changes to the selection criteria or process.

What SB 2175 does change is the dollar limitation when the Department can direct negotiate with consultants. Current law allows the Department to direct select consultants on projects where the anticipated consultant fee will not exceed \$25,000 with the limitation that firms can secure no more than \$50,000 in consultant fees from the direct selection process in a twelve month period. SB 2175 adjusts these amounts to \$100,000 with a limitation of \$200,000 in consultant fees from the direct selection process in a twelve month period.

SB 2175 also would change the dollar limitation when the Department can adjust the advertising period from 21 days down to seven days. Current law allows the 21 day advertisement period to be adjusted down to seven days for projects with estimated consultant costs between \$25,000 and \$100,000. SB 2175 adjusts these amounts to \$100,000 and \$300,000 respectively.

In addition, SB 2175 clarifies that the Department can solicit for consultant services on more than one project within one solicitation. This is shown on lines 1 thru 4 on page 3 of the bill.

If we look back to 2010, of the approximately 148 contracts for consultant services, the DOT had approximately 33 projects that would meet the criteria of less than \$100,000 and 55 projects that would meet the criteria of \$100,000 to \$300,000.

When unique events occur that affect North Dakota's highway system, the DOT needs the ability to obtain qualified consultants quickly. As a result we support SB 2175.

I would be happy to answer any questions that the committee may have. Thank you.