

March 9, 2023

**House Government & Veterans Affairs Committee
SB 2347**

Mr. Chairman and members of the House Government & Veterans Affairs Committee, my name is Russ Hanson, and I am with the Associated General Contractors of North Dakota (AGC of ND). The AGC of ND is the largest construction trade association in North Dakota representing 400 members who perform all types of commercial construction (highway/bridge, vertical commercial, water/utility). Our membership also consists of equipment and material suppliers and been in existence since 1951.

The AGC of ND is in opposition to SB 2347 which proposes to increase the design threshold to \$500,000 for most public projects and to \$1,000,000 for "pre-engineered units". Our association has been a consistent opponent of raising thresholds throughout the years as they are presented to the Legislature.

Our main reason to oppose raising the thresholds is for the purpose of a transparent bid. Transparency in bidding usually leads to more bidders. While we are pleased the bid/bond threshold in SB 2347 remain at the current \$200,000, the proposal to raise the design threshold to \$500,000 or \$1,000,000 raises concerns and confusion we dealt with in past policy.

Since the inception of the bid thresholds, I believe the design and bid thresholds had been the same except for the 2015-17 biennium. My experience with thresholds goes to the early 1990's and I believe they may have started at \$50,000 or in that range. At some point they were adjusted to \$100,000 and stayed at that level for well over a decade, maybe close to a decade and a half.

The 2015 Legislature (SB 2246) raised the design threshold from \$100,000 to \$150,000 while leaving the construction threshold at \$100,000. When they became two different, there was confusion. The stakeholders believe having uniform thresholds for advertising, bidding, bonding, and procuring designs is an important element to keep NDCC 48 (Public Bid Code) simple and easy to apply to the construction process. While public entities in our more metro areas build regularly and are very familiar with the NDCC 48 statutes, many of the rural political subdivisions are not. They may only have a construction project every 20 to 30 years so having a process to guide them in a simple manner is important. Decoupling the thresholds at different amounts and adding a specific threshold for “pre-engineered units” into the code makes the process more complex, confusing, and ripe for NDCC 48 noncompliance. I could not find a definition for “pre-engineered unit” in NDCC 48 which, to us, is very concerning. Further, there is no penalty for violating NDCC 48 policies so having a statute to clearly follow is important to stakeholder groups. We have found when the section is misapplied, it is generally not because of their intention to do so, they didn’t know the process or policies.

With that, the 2017 Legislature (SB 2146) raised the construction and bonding threshold to match the design threshold, so they were all the same amount - \$150,000. The 2019 Legislature (HB 1356) raised all NDCC 48 thresholds to \$200,000 where they have remained since. We believe the current thresholds are the proper amounts. There is other legislation this session (HB 1127) which propose to bring county bridge construction projects to the NDCC amounts to further align public funding thresholds at the same value.

For those reasons, we do not view SB 2347 as necessary, and we would request a Do Not Pass Committee Recommendation. Thank you for allowing me to present this testimony.