

TESTIMONY OF
BRIGIDIER GENERAL JACKIE HUBER
DEPUTY ADJUTANT GENERAL
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
SENATE BUSINESS AND INDUSTRY COMMITTEE
14 JANUARY 2025
SENATE BILL 2130

Good morning, Chairman Barta, members of the committee, I am Brigadier General Jackie Huber, the Deputy Adjutant General of the North Dakota National Guard. I am here today to testify in support of SB 2130. This bill proposes a new section of chapter 37-10 that allows for the prequalification of consultants in the areas of architecture, engineering, construction management, and land surveying. This bill, which is based off similar authority given to the director of the Department of Transportation, would give our agency authority that ensures the state receives the full benefit of over 23 million dollars in federal funding each biennium.

Over the last three years, the state has received approximately 28 million dollars in federal reimbursement for 83 separate projects to maintain, repair and modernize North Dakota National Guard facilities. With 330 buildings on 12 separate complexes under the responsibility of the Adjutant General, we rely heavily on federal funds to perform much needed maintenance and repair projects each year, as well as limited modernization projects. These projects are critical to ensuring the North Dakota National Guard has properly maintained facilities to carry out our important federal and state missions, as well as, preserving the state's investment in these facilities.

The key to maximizing these federal funds is prompt execution of these projects. The federal reimbursement dollars for these projects are only appropriated for a single federal fiscal year. The use of an efficient procurement processes is necessary to ensure the maximum amount of federal funds find their way to North Dakota. If we fail to execute all federal funds, the state not only loses the benefit of those funds, but we also risk losing future federal dollars, as a lack of execution often leads to a reduction in funds the next fiscal year.

For decades, the North Dakota National Guard has taken full advantage of available federal funds by utilizing a competitive process that selects consultants to perform services based on demonstrated competence and qualification, falling in line with the legislative policy goal declared in section 54-44.7-02 of the North Dakota Century Code. While we are confident that the process utilized fell in line with the policy goals of Chapter 54-44.7, and that we acted based on a good-faith interpretation of our authority, we have ceased using that process after receiving clarification of our authority from the Office of the Attorney General.

This bill seeks the authority to reduce red tape and utilize a more efficient process to procure architect and engineer services. This efficient process will still rely on the selection criteria outlined in 54-44.7-03. We are only looking to expedite the process for certain projects, and again, only for procuring architect and engineer services. Additionally, even after prequalification, firms will be evaluated a second time based on criteria listed in 54-44.7-03 before being selected for a project. Projects utilizing a greater amount of non-reimbursed state funds, will require a more in-depth evaluation process. The goal of the bill seeks to balance efficiency with the state's interest in competition.

I want to close today by emphasizing several key points. First, we are only seeking this authority for architect and engineer services. We are not looking to use this process for the selection of contractors for the actual construction associated with these projects. We will continue to utilize the contracting procedures required for public improvement projects. Second, we are only looking to use this process for the procurement of architect and engineer services associated with maintenance, repair, and modernization projects. These projects include things like roof repair, roadway/driveway repair, and boiler replacements. We are not seeking to use this process for large construction projects like building a new armory or a field maintenance shop. Lastly, the proposed process is critical to allow us to continue to take full advantage of these much-needed federal funds in the relatively short window we have to use them. This process provides us the ability to complete approximately 28 of these projects each year. Without this authority, we estimate that we will only be able to complete eight. This places us at risk of losing the benefit of 14-16 million dollars in federal funding each biennium.

In summary, SB 2130 gives us the authority we need to efficiently execute the projects necessary to maintain our facilities and ensure our continued readiness. The process proposed in this bill will allow us to fully leverage available federal funding, all the while adhering to the policy goals of Chapter 54-44.7. This bill strikes a balance between efficiency and competition. I ask for your support on SB 2130, and I am happy to stand for any questions you may have.