

2011 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2026


2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2026
1/5/2011
Job Number: 12578

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Public improvement construction bid threshold

Chairman Senator Klein: Opened the meeting.

Tim Dawson Legislative Council: Not here for or against the bill. The meat of the bill is on page 2, sections 6-9. The bill is to make it easier to change the threshold if it needs to be changed in the future. He explained the reasons for the two separate thresholds, one for the bidding portion and one for the architects and engineers or professional services.

Chairman Senator Klein: Asked for Tim to explain 48-01.2

Tim Dawson: New part of the law, explains the differences.

Chairman Senator Klein: Stated that is being summed up in that section so it is easy for everyone.

Senator Andrist: Asked if it was stated that the 100,000 in the bill was the same as it is now. Was it decided that this was the right amount and how was it decided.

Tim Dawson: Talked about the different thresholds that were looked at. He stated that the Advisory Commission looked at other thresholds and was trying to figure out a way to keep this threshold without having to go to the Legislature each time. Decided to keep it where it was and put it into a bill draft.

Senator Nodland: Asked if they had changed the actual construction cost from the bidding estimates.

Tim: No interest in having a change in this bill draft.

Senator Nodland: The way the wording change is read, makes him think of bidding and an estimate, and then we aren't working with a hard \$100,000.

Tim: He stated that if you're going to advertize for a bid you would have to estimate.

Senator Schneider: Clarification of a line on page one. He felt they were working off of an estimate to begin with.

Tim: He stated it was changing the sentence structure, so it would be easier to understand.

Chairman Senator Klein: Asked for any other in support of or in opposition.
Closed hearing

Senator Andrist: Comment made about the threshold being appropriate for bidding.
Motion was made for a due pass.

Senator Laffen: Seconded the motion and commented that it affects the public employees.

Roll Call Vote Taken

Do Pass

Passed: Yes – 7 No - 0

Date: 1/5/2011
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2026

Senate Industry, Business and Labor 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 Andrist Seconded By Senator Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider	✓	
VC George L. Nodland	✓		Senator Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Laffen

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

REPORT OF STANDING COMMITTEE

SB 2026: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2026 was placed on the Eleventh order on the calendar.

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2026

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2026
March 3, 2011
14919

Conference Committee

Committee Clerk Signature <i>Carmen Hart</i>
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Explanation or reason for introduction of bill/resolution:

Relating to the bidding threshold for public improvement construction

Minutes:

Chairman Bette Grande opened the hearing on SB 2026.

Tim Dawson, Legislative Council, Staff the advisory commission in intergovernmental relations, appeared to give information on this bill. This bill centralizes the public improvement professional design services advertising and bidding thresholds. The bill makes no substantive changes to the law. The meat of the bill is on Page 2, Lines 6-9. That says the threshold for bidding construction of a public improvement is \$100,000 and the threshold for procuring plans, drawings, and specifications from an architect or engineer professional design services is \$100,000. That is what they are now. The reason for the two sentences is because theoretically they could be different. By having them different it allows for if they were to be changed in the future, easy change, and that is why they are centralized as well. When the legislative assembly visits this issue as it does from time to time, the changes only need to be made in that one section instead of all the other sections in this bill.

Chairman Bette Grande: With the two different bids if somebody is looking at a project and the first thing they want to do is do the plans, the drawings, the architectural, that portion, that goes out to bid at \$100,000. When that is done, they put out a construction bid for \$100,000?

Tim Dawson: The plans and specifications section is Section 2 of the bill and it says when the estimated cost for the construction of a public improvement. That is the threshold for all these, this estimated cost of a public improvement. Once you have this building that you are making for the state or political subdivision and you have estimated value at that then you are going to do all these things.

Chairman Bette Grande: As long as that estimate is above \$100,000, then they have to go to bid? If it is not going to be, then there is not going to be any bidding?

Tim Dawson: Correct.

Vice Chairman Randy Boehning: Does this apply to higher ed.?

Tim Dawson: I am thinking hard about that. I think, yes. It is all state entities. I am pretty sure.

Vice Chairman Randy Boehning: I would like to have the absolute answer on that.

Rep. Mark Sanford: More a comment probably than a question. Earlier in the session the house education committee sent out a bill that had these same thresholds for school construction, the bidding. It is interesting to me that this other committee I am on gets the same format if you would. That did pass our chamber and is over in the senate at this time. That related specifically to school improvement projects.

Chairman Bette Grande: Would they not have been covered in this bill?

Tim Dawson: I will check on that and report back. I think they are.

Rep. Karen Rohr: I would like the answer to Rep. Boehning's question too, because on the bottom of Page 1 it says the state board of higher education actually has to approve these plans and specifications for public improvement.

Tim Dawson: That is why I think these do apply to the board of higher education. It just is something I haven't thought of before I got here today. I would like to be absolutely sure when I make an answer. I would like to go look at it.

Doreen Riedman, North Dakota Association of Builders, appeared in support. We support the concepts of the \$100,000 to insure that it remains at that level as to when bidding should take place. We believe that it is good public policy and for our small contractors and subcontractors we believe this is a good idea and that public projects should be bid more often than not.

Vice Chairman Randy Boehning: Looking at Section 5, bid requirements for public improvements, if a general, mechanical, or electrical contract is estimated to be less than 25 percent of the threshold, the contract may be incorporated. Is that underneath one of the other? I am kind of lost how that works.

Doreen Riedman: I can't answer that question. I am not certain either. There might be somebody else in the room that is better versed on the three primes and that concept.

Bill Kalanek, Dakotas' Chapter of the National Electrical Contractors Association and the ND Association of Plumbing, Heating, and Mechanical Contractors, appeared in support. We worked with the interim committee and this was a consensus amongst our coalition that this is the way the bill should move forward and the threshold that has been established is best for public policy. With regard to your question, Rep. Boehning, that provision is in there in case an entity were to choose to lump two of the contracts together, they could do so if the amounts are less than 25 percent. Instead of three separate they could do two or something of that nature.

Vice Chairman Randy Boehning: Basically it would be in the same general contract. Say the electrical is 25 percent less than the prime they could lump it in with the mechanical?

Bill Kalanek: That is correct. That is the intent of that. That has been in the law for some time.

There was no one opposed or neutral to this bill.

The hearing was closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2026
March 10, 2011
15246

Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the bidding threshold for public improvement construction

Minutes:

Chairman Bette Grande opened the discussion on SB 2026.

Rep. Lonny Winrich: According to my notes, this bill makes no substitute changes. Under the current law the threshold is \$100,000 but it needs to be repeated in several sections of the code. This takes that out and puts it in one place.

Chairman Bette Grande: My notes say that it centralizes the bid thresholds.

Rep. Mark Sanford: Was this the one where the architects were a little concerned about?

Rep. Lonny Winrich: That was 2027.

Chairman Bette Grande: SB 2027 is the one we are working amendments for. That is the one where Mr. Boyle came down from facility management and there were the concerns of how that one would work.

Vice Chairman Randy Boehning made a motion for a Do Pass.

Rep. Roscoe Streyle seconded the motion.

Rep. Gary Paur: Rep. Karls had in her notes no objection to this.

Chairman Bette Grande: Looking at the minutes from the hearing, Mr. Dawson was asked from Rep. Sanford about the house education committee sending a bill out with the same thresholds. He says that he was going to get back to us whether or not there was a difference in these bills. I have not heard anything back from him on that. Does anybody else have a concern there?

Vice Chairman Randy Boehning: I am just wondering if they are referencing back to that Section 48-01.2-02.1. If you change it in one spot, it would change for all subdivisions.

Rep. Lisa Meier: I wasn't present for that hearing, but I do recall the bill. It was sponsored by Rep. Rust. Just looking over this, I think it does relate quite well with the other bill.

Rep. Mark Sanford: My recollection on the one that came through education was that these numbers of \$100,000 would be consistent with that bill. The difference in this one would be simply that 25%. There was no reference to that in the house bill.

Vice Chairman Randy Boehning: There were talking something about putting this new language in here on Page 2, Lines 6-9.

Chairman Bette Grande: There was also a question about the higher ed. board and it says he would look into it and get back to us. She was told that he did get back on that.

Rep. Lisa Meier: The point on the house bill too is it pertains specifically to schools. I think this actually would be for public improvement on other buildings other than schools, correct? Actually it does have some different reference than the house bill that we heard and passed.

Chairman Bette Grande: I feel as though we have everything addressed in concerns because I think that this does match up over here. It will be up to council to merge them. That is their job.

DO PASS, 12 YEAS, 0 NAYS, 1 ABSENT. Rep. Lonny Winrich is the carrier of this bill.

Date: 3-10-11
 Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2026

House GOVERNMENT AND VETERAN AFFAIRS 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 Boehning Seconded By Streyle

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande	✓		Bill Amerman	✓	
Vice Chairman Randy Boehning	✓		Ron Guggisberg	✓	
Glen Froseth	✓		Lonny Winrich	✓	
Karen Karls					
Lisa Meier	✓				
Gary Paur	✓				
Karen Rohr	✓				
Mark Sanford	✓				
Vicky Steiner	✓				
Roscoe Streyle	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Winrich

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

REPORT OF STANDING COMMITTEE

SB 2026: Government and Veterans Affairs Committee (Rep. Grande, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
SB 2026 was placed on the Fourteenth order on the calendar.