

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1483

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1483

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1483

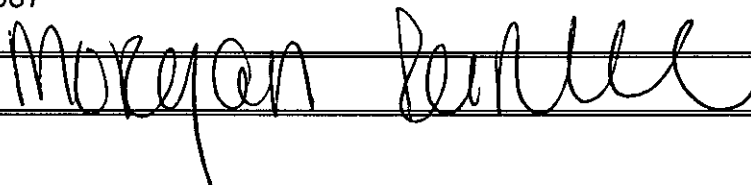
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 2, 2007

Recorder Job Number: 2687

Committee Clerk Signature



Minutes:

Rep. Gulleson: *This bill basically provides direction to our purchasing for OMB and Higher education to establish a system by which environment preferable products are part of the purchasing decision on any type or product. We all know that ND has many bio based agriculture products, in terms of production. We think that as a state it makes great sense to put in as part of our quality that we are really looking at being good role models, and helping the environment. This bill comes to you through the Renewable Energy Partnership. They are behind it. I'm going to show you a few examples of bio based products. They are really familiar with soy. There are many other examples also such as recyclable paper, napkins, paper products, There is also lots of corn products being used today to make blankets, mugs, and carpets. Also rulers, plastic covers, and such are all available in environmentally safe materials. These products still have to meet all the other requirements such as competitive bids, pricings, competition, etc. I called to a Bismarck printer yesterday to ask about the price difference between anything recyclable and regular. They said there is basically no price difference because there is such a high demand.*

Rep. Froseth: Are these corn products classified as a bi product of ethanol?

Rep. Gulleson: I'm sure they can. One of the projects that we are working on is called Ligman. Those fibers have tremendous potential in the development of plastic.

Rep. Froseth: Does this also include hemp?

Rep. Gulleson: Sure it would. Very much so, anything bio based is in the category.

Rep. Kasper: On line 18 you state more practicable bio based products must be specified. The question is what is practicable.

Rep. Gulleson: I was just talking about that last night. We always use the word practical. It is practical in nature but actively applies to what you are doing. Here you are saying that if it applies to items you are purchasing.

Rep. Kasper: My concern is that in the rest of the bill it says must be specified. So if its practicable, but it costs twice as much, it must be specified. Wouldn't we be better off to soften that must be a little bit?

Rep. Gulleson: This does still have to apply.

Roger Johnson: Testimony Attached.

Rep. Meier: What kind of money are we looking at if we start using bi products?

Roger Johnson: In most cases these products are competitively priced with others. If your asking how much a company is making by producing this product, that is going to vary. Virtually in every page they are competing with the traditional product. In most cases it is safe to say that these products have become economically competitively with non bio products.

Rep. Boehning: Can they use these bi products from the ethanol plant or does it have to be in its natural state?

Roger Johnson: With your permission I'm going to let Mike Clemens answer that because he's spent a long time researching.

Rep. Kasper: Do you have any idea how many of these products are currently manufactured in ND?

Roger Johnson: I don't know that I could say that but I'm sure we manufacture a number of them here. If you'd like I would be happy to get you some examples. If I could add one additional comment in response to Rep. Froseth's question. If you have a foreign car, much of the interior comes from industrial hemp – the carpeting, the panels, and the dashboard.

Rep. Boehning: Are these products going to be useable to buy in May?

Roger Johnson: The markets go up and down. If I were a betting man I'd say it wouldn't be up forever. Economic conditions change all the time. OMB and all state agencies will make good decisions. We always look at costs of all items.

Mike Clemens: Testimony Attached.

Sherry Neas: Testimony Attached.

Rep Kasper: My concern on line 18 with the bill that says more practicable bio based products must be specified. Can you share how that would work and what has to be specified.

Sherry Neas: There would have to be research done on the program and we would have to work with the federal government. There was a presidential order in 1999 that directed the Department of Energy to develop bio based products. That council consisted of energy, agricultural, commerce, and OMB and they identified the approved product list. From that the federal OMB established the guidelines. We would have to do something similar and we would probably use that list. We would have to look at the products, goods, and state purchases to build specification. The state ads state term contracts for commodities that are high volume.

Rep. Kasper: The product would have to be as good of quality and not as cheap, but competitively priced for you to do that?

Sherry Neas: We use words practicable which would give you the flexibility to take into

consideration quality. There used to be a statute that requires the state to specify biodegradable garbage bags and we did that for awhile. But if you throw something wet in there, it disintegrates. In the end it turned out to be not practicable for us to have that. Common sense would have to play a part too.

Rep. Haas: That was along my lines of thinking too. If the words must is contingent on practicable, then you'd think that the definition you could come up with

Rep. Meier: Are you using any bio based products currently?

Sherry Neas: I really don't know. We are using recycled paper.

Rep. Haas: Is there any additional testimony on HB 1483? If not we will close the hearing on HB 1483.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1483

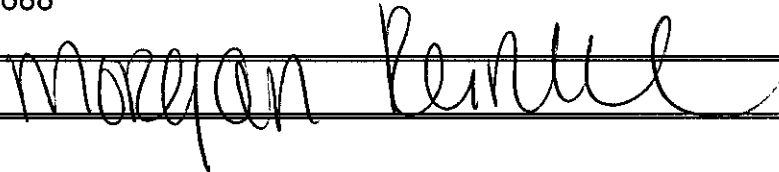
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 2, 2007

Recorder Job Number: 2688

Committee Clerk Signature



Minutes:

Rep. Kasper: I don't mind them being on a list where it can be included, but I'm concerned that it goes too far.

Rep. Haas: I also think it takes away a little flexibility about bidding for products. That is one of my concerns. As long as this defeats your definition of practicability, you have to specify its bio based because you have no options. So if they were looking for a carpet they have to put down its bio based. With the way it is written they only get the things they bid that are bio based.

They wouldn't get the bids from other products. That is not the way I understood it.

Rep. Haas: When you put out a call for bids, the bidders bid according to the specs and they don't deviate from the specs. If they do they have to specify what the deviation is and that is the standard procedure. It seems to me that if you had decided that whatever you are trying to buy, then you find a product that is practicable and bio based, that is the only thing that you can put in your bid specs. You must specify that and no other specifications. It doesn't even allow you the flexibility to put in an ultimate bid for non bio based. Would that be correct?

Rep. Kasper: That is what I read of this bill.

Rep. Amerman: It might be correct but I need an understanding on it.

Rep. Haas: Linda, can you answer that question.

Linda Belisle: We deliberated in working with this bill and we think we can make this work. We can put this all in the bid specs. If we have the product that is practicable it will not seclude us from other bids. This could all be evaluated and analyzed during that process.

Rep. Haas: Is there any further discussion?

Rep. Kasper: Can they specify bio based now, without this bill?

Sherry Neas: We could but it wouldn't be a priority. I don't think we would commit he manpower to regulate this. Look at line 11 on your bill.

Rep. Haas: I think your on line 18, are you not?

Sherry Neas: Your right, I'm sorry.

Rep. Weiler: What would the word may to do this amendment?

Sherry Neas: May would be so commisive that it wouldn't suggest any sort of direction.

Rep. Weiler: You had said previously that right now you cannot specify bio based products. Rep. Amerman had a question that asked if you could specify bio based products and your response was we could, but. My question is if we pass this bill with the word may instead of must, would that allow you then to have that direction?

Sherry Neas: May would be far more straight forward than must, and I agree with that. I agree that must locks you in.

Rep. Schneider: It seems to be that the more practicable language softens the must quite a bit. In your written testimony it said that it allowed the flexibility to be efficient. Do you still agree with that?

Sherry Neas: We did have this discussion and we think this would work. The discussion made you realize that it is an imperative. The word practicable doesn't soften it. It would be easier to infiltrate.

Rep. Schneider: In your testimony you also say that you usually have the ability to get all the bids with different specifications and alternative bids. I just don't see what the problem with the must is.

Sherry Neas: Probably yes, but we still had to talk about this language. We are more comfortable with that language. It gives you more leeway. It gives you more direction. Would it always be in force? Probably not because there will be times that we would consider whether or not there was a bio based alternative. The proper research might not always get done to determine the bio based products.

Rep. Dahl: The word should has been compromised between must and may in the direction it takes you.

Rep. Dahl: I would make a motion to move amendment with should and add an effective date of July 1, 2008.

Rep. Karls: I second that

Rep. Haas: Is there discussion?

Rep. Kasper: I would like to have us consider the following statement for Line 18. More practicable bio based products may be included in the specifications. I want to speak against the amendment on the floor.

Rep. Haas: We have an amendment on the floor, is there any more discussion?

Rep. Weiler: I'm going to oppose the amendment. I think that must and should are going to be tainting too close to each other. There is not a difference between must and should. Should is a directive. Must is more of a directive. If we can put may in there, they are still able to do it anyways.

Rep. Amerman: I think that if the people who wrote it had problems with the bill they would have testified on the problems they had. The bill gives direction to the future that you give

more consideration to bio based products. I'm not saying more than they have to buy these things over one another. I think they should just look at them. They still have to be competitive. We didn't see anyone in opposition to this bill. I'm fine with should and I'm fine with must. I think we are dissecting this too much.

Rep. Potter: I like the word must. The public has spoken and spoken pretty well. They, at least in ND, would like us to become more environmentally friendly. That has been voiced loud and clear.

Rep. Froseth: Possibly a compromise between the two would be to put shall be considered in this specification. It would give them a directive that they had to consider that, not that they must consider that.

Rep. Dahl: We are thinking about this too much. The word should is a strong suggestion. It's not a must, it's not may, it's a suggestion.

Rep. Haas: All in favor of the amendment signify by saying 'aye'. All opposed say 'no'.

Rep. Kasper: Roll call please.

Rep. Haas: Amendment passes on a vote 8-4-1.

Rep. Kasper: I have another amendment to consider, beginning on line 20. I think we should take out shall and put on may and take out or and put in to include.

Rep. Haas: Is there a second to that amendment?

Rep. Weiler: I second that.

Rep. Haas: Is there any discussion? If not we will do a roll call vote. All in favor say 'aye' opposed say 'no'. Roll call vote please. The amendment fails by a vote of 6-6-1. So we have the bill before us with only one change on line 18.

Rep. Kasper: I move a do not pass

Rep. Boehning; I second that

Rep. Haas: The do not pass motion fails by a vote of 5-7-1.

Rep. Schneider: I move a do pass as amended.

Rep. Potter: I second that.

Rep. Haas: The do pass as amended motion passes by a vote of 7-5-1. Who will carry the bill?

Rep. Schneider: I will.

FISCAL NOTE
Requested by Legislative Council
01/17/2007

Bill/Resolution No.: HB 1483

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Encourages agencies to purchase environmentally preferable products whenever practicable and requires OMB and the State Board Higher Education to develop guidelines for biobased procurement program. Any fiscal impact would be because of the requirement to write guidelines.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Its fiscal impact should be limited to administrative costs to those agencies involved in the development of guidelines such as writing the guidelines, incorporating them into the existing procurement training program, developing forms and templates, and posting program information to the Internet. Also, purchasing agencies would incur ongoing administrative costs when analyzing their procurements against the requirements outlined in the guidelines.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Linda Belisle	Agency:	OMB Central Services Division
Phone Number:	328-3494	Date Prepared:	01/22/2007

Date: 2-2-07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1483

Action Taken move amendment must - insert

Motion Made By Rep. Dani Seconded By Rep. Karls

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman	X		Rep. Bill Amerman	X	
Rep. Bette Grande VC			Rep. Louise Potter	X	
Rep. Randy Boehning		X	Rep. Jasper Schneider	X	
Rep. Stacey Dahl	X		Rep. Lisa Wolf	X	
Rep. Glen Froseth	X				
Rep. Karen Karls	X				
Rep. Jim Kasper		X			
Rep. Lisa Meier		X			
Rep. Dave Weiler		X			

Total (Yes) 8 No 4

Absent 1

Floor Assignment Rep.

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

Date: 2-2-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1483

Action Taken move amendment

Motion Made By Rep KASPER Seconded By Rep Weiler

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman		X	Rep. Bill Amerman		X
Rep. Bette Grande VC			Rep. Louise Potter		X
Rep. Randy Boehning	X		Rep. Jasper Schneider		X
Rep. Stacey Dahl		X	Rep. Lisa Wolf		X
Rep. Glen Froseth	X				
Rep. Karen Karls	X				
Rep. Jim Kasper	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 6 No 6

Absent 1

Floor Assignment Rep

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

Date: 2-2-07
Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1483

Action Taken DO NOT PASS AS AMENDED.

Motion Made By Rep Kasper Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman		X	Rep. Bill Amerman		X
Rep. Bette Grande VC			Rep. Louise Potter		X
Rep. Randy Boehning	X		Rep. Jasper Schneider		X
Rep. Stacey Dahl		X	Rep. Lisa Wolf		X
Rep. Glen Froseth		X			
Rep. Karen Karls	X				
Rep. Jim Kasper	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 5 No 7

Absent 1

Floor Assignment _____

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

Date: 2-2-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1483

Action Taken Do pass as amended

Motion Made By Rep Schneider Seconded By Rep Potter

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman	X		Rep. Bill Amerman	X	
Rep. Bette Grande VC			Rep. Louise Potter	X	
Rep. Randy Boehning		X	Rep. Jasper Schneider	X	
Rep. Stacey Dahl	X		Rep. Lisa Wolf	X	
Rep. Glen Froseth	X				
Rep. Karen Karls		X			
Rep. Jim Kasper		X			
Rep. Lisa Meier		X			
Rep. Dave Weiler		X			

Total (Yes) 7 No 5

Absent 1

Floor Assignment Rep Schneider

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

REPORT OF STANDING COMMITTEE

HB 1483: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1483 was placed on the Sixth order on the calendar.

Page 1, line 2, after "products" insert "; to provide an effective date; and to declare an emergency"

Page 1, line 7, after the boldfaced period insert:

"1."

Page 1, line 11, replace "1." with "a."

Page 1, line 16, replace "2." with "b."

Page 1, line 18, replace "3." with "c.", replace "must" with "should", and after the underscored period insert:

"2."

Page 1, after line 20, insert:

"**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on July 1, 2008.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2007 SENATE POLITICAL SUBDIVISIONS

HB 1483

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1483**

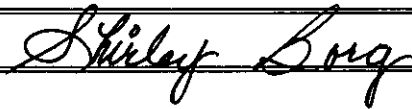
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **March 15, 2007**

Recorder Job Number: **5159**

Committee Clerk Signature



Minutes:

Chairman Cook called the Senate Political Subdivisions Committee to order. All members (5) present.

Chairman Cook opened the hearing on HB 1483 relating to procurement of environmentally preferable products.

Representative Guleson, District 26, Southeast North Dakota introduced HB 1483. This is a bill that is one of the bills that is renewal energy partnership brought forward this session. In the development of the bill we worked very closely with the State Procurement Office and had them react to the draft and make any additional improvements. What this bill does is that in the procurement process with in state government, we are going to be asked to purchase environmentally preferable products. This puts North Dakota in the position of being a role model for how we manage our own purchases. First and foremost we look to basically what North Dakota has the capability of raising. Much of these are corn or soybean based products and we asked that within the procurement process that we put a consideration on purchasing them. It can not go outside the guideline of meeting the guidelines of the RFP. We could not pay more for products because it was a bio-based. It has to meet all the obligations of a bid in state government. She brought examples of bio-based products and passed them around.

Senator Hacker: In Subsection 2, might OMB and State Government develop guidelines and what size committee will be created. There is a cost to that, so is there a price tag on this?

Representative Gulleason: The fiscal note shows no extra cost. We work very closely with OMB and Higher Ed on this. They feel comfortable with this. On the federal level, they have established a policy where this is the preferred product so much of the home work has been done in term of the guidelines.

Roger Johnson, Agriculture Commission, testified in support of HB 1483. (attachment #1)

Bill Kalenek, Representing the North Dakota Renewable Energy Partnership testified in support of HB 1483 and passed out testimony from Mike Clemens who was not able to be here.

Sherry Neas, State Procurement Manager, OMB, State Procurement Office testified in support of HB 1483. (Attachment #3)

Chairman Cook: Cost is still going to be the number one factor in determining what product you buy. Am I to understand that there is a possibility that bio-based products could become the speck and now we are looking at the cheapest price of those products that are bio-based?

Sherry Neas: To make a good business decision when you identify a product you would have to look at whether or not a bio-based exists and what the cost is of that and how effective it is. It is not uncommon that bio-based product costs a little bit more. In those guidelines we have to established parameters for what is feasible.

Senator Hacker: Is this something that could cost the state to much money?

Sherry Neas: This was amended in the house and it was reduced from required to should and we appreciated that amendment because it is now worded as more of a recommendation. We rely on Federal Government Guidelines. We meet with the heads of procurement from NDSU,

UND and Wahpeton. Those are the three institutions with dedicated contracting staff and so we have envisioned that would be the collaborate effort.

Senator Hacker: Do you need the university system involved in this piece of legislation to do that? Could OMB do this and cover them and then you would not have worry about it?

Sherry Neas: Yes we could do that and then give that to them to review for their collaborate effort

Senator Anderson: When you talk about coming up with the guidelines, there are other states that have worked on that which you could use as a guideline. Why does it have to be a big board to put these guidelines together?

Sherry Neas: I don't think that it will be. I think it will be accomplished by a few people and then they will run the guidelines by the interested parties who have an invested interest in this. No further testimony in support, opposed or neutral on HB 1483.

Chairman Cook closed the hearing on HB 1483.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1483**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **March 22, 2007**

Recorder Job Number: **5443**

Committee Clerk Signature

Shirley Borg

Minutes:

Chairman Cook called the committee to order. All members (5) present.

Chairman Cook asked the committee to look at HB 1483.

Senator Warner: I will vote for this. I think it raises an awareness of the contributions of agriculture assisting the society.

Senator Warner moved a Do Pass

Senator Anderson seconded the motion.

Discussion:

Senator Olafson: I am troubled by the definition of environmentally preferable and to whom?

Senator Hacker: OMB. I recall carry a bill out of here last year because it was costing them too much money. I think there are some unintended consequences that could arise.

Senator Anderson: I think one of the things that was noted was this would be the first step in going on a longer journey. I don't think it gives a big advantage to the bio-based products but I think it would encourage the people who produce them to be more competitive. So if we had this at least the OMB who I have faith in would be able to accomplish that so we can get more of those products in the future at a competitive price.

Page 2

Senate Political Subdivisions Committee

Bill/Resolution No. HB 1483

Hearing Date: March 22, 2007

Senator Olafson: There are a lot of agriculture producers in my district that are very interested in the whole bio-based products issue, so I support the bill.

Roll call vote: Yes 3 No 2 Absent 0

Carrier: **Senator Warner**

Date: 3.22.07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1483

Senate _____ Political Subdivisions _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Warner Seconded By Senator Anderson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman		X	Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker		X			

Total Yes 3 No 2

Absent 0

Floor Assignment Senator Warner

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

REPORT OF STANDING COMMITTEE (410)
March 23, 2007 10:27 a.m.

Module No: SR-55-6046
Carrier: Warner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1483, as reengrossed: Political Subdivisions Committee (Sen. Cook, Chairman)
recommends **DO PASS** (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
Reengrossed HB 1483 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1483

