

TESTIMONY OF

Sherry Neas, Division Director, OMB Central Services Division

Good morning, Senator Larsen, and members of the committee. My name is Sherry Neas, Central Services Division Director, and Chief Procurement Officer, with the Office of Management and Budget (OMB). OMB is neutral on the engrossed HB 1368.

The engrossed bill was the result of collaboration with the House subcommittee, the sponsor, bill supporters and state agencies opposed to the bill as introduced.

The OMB testimony only pertains to section 2 of the engrossed bill.

The original bill created a new section in N.D.C.C. Chapter 44-08 providing that, "...a public entity may not enter a contract with a company to acquire or dispose of services, supplies, information technology, or construction unless the contract includes a written certification that the company is not engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel."

The original bill was very broad, impacting all levels of North Dakota government conducting multiple types of contracting activities. Opposition to the original bill language cited potential legal implications and complication of the procurement and contract negotiations.

The engrossed bill addresses those concerns.

Section 2, on page 2, narrows the scope considerably by creating a new section in the state purchasing chapter of law, N.D.C.C. 54-44.4. This chapter applies to state agencies and higher education institutions when procuring goods, services, printing, and information technology. The bill no longer impacts local government contracts.

The engrossed bill removes the requirement to have contractors provide a written certification that they are not boycotting goods and services from Israel.

Page 2, lines 17-20: The engrossed bill requires that if a state entity enters a contract that includes a nondiscrimination provision, that contract will include a provision "prohibiting the party to the contract from boycotting Israel for the duration of the contract." Also added was a new sentence, "Failure to comply with this subsection does not affect the enforceability of a contract."

Section 2, Page 2, Lines 13-16: This section does contain a definition of "Company" that likely inadvertently remained from the original bill. The word "company" is no longer used in Section 2, except in the definition of company.

OMB is neutral on the engrossed bill. OMB has been focused on simplification of procurement and contracting. We greatly appreciate the good working relationship between the sponsors and supporters to understand and address the concerns raised about the original bill. The engrossed bill addresses those concerns.

If this committee and the legislative body vote to pass this legislation, OMB will work with the Office of the Attorney General, North Dakota University System, and all state agencies and institutions to implement.

Thank you, Mr. Chairman and committee members. This concludes my testimony. I would be happy to answer any questions.