

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2347

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Halko
Operator's Signature

10/22/03
Date

2003 SENATE NATURAL RESOURCES

SB 2347

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/22/03

Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2347

Senate Natural Resources Committee

Conference Committee

Hearing Date 2-14-03

Tape Number	Side A	Side B	Meter #
1	X		22.7 - 37.6
		X	44.0 - 47.6
Committee Clerk Signature <i>Janet James</i>			

Minutes:

Senator Ben Tollefson, Vice Chairman of the Senate Natural Resources Committee opened the hearing on SB 2347 relating to guaranteed energy savings contracts.

All members of the committee were present except Senator John Traynor.

Senator Russell Thane from District 25 introduced SB 2347 stating the bill was behalf of the State School of Science to help them save money.

Rep. Bruce Eckre of District 25 stated SB 2347 will save SSS money and maybe others some day and asked the committee for positive response to the bill.

Darin Scherr, (24.9) the State Energy Engineer for the North Dakota Department of Commerce testified in support of SB 2347 (See attached testimony).

Wayne Flack (28.1) physical plant director at the North Dakota State School of Science testified in support of SB 2347. (See attached testimony). He also presented an addition information sheet

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Walcott
Operator's Signature

10/22/03
Date

Page 2

Senate Natural Resources Committee

Bill/Resolution Number SB 2347

Hearing Date 2-14-03

(see attached). The concept is to make physical improvements that are energy related and the savings from those improvements will pay for the implementation for over a period of 10 years.

Senator Tollefson asked if it is the key to the expertise after the 3 year period, then how sure can we be that the expertise is in place.

Darin Flack responded that when a mechanical piece of equipment is improved it will be watched for three years and after the fourth year isn't going to deteriorate. Also there is the in house expertise and the systems will be monitored by the State Energy Office.

There was no testimony in opposition or in a neutral position.

Senator Tollefson closed the hearing on SB 2347.

Tape 1, Side B 44.0 - 47.6

Senator Thomas Fischer opened discussion on SB 2347.

Senator Ben Tollefson explained the bill.

Senator Michael Every stated he saw an opportunity for abuse and the fact that the expertise comes from the company who installs the equipment.

Senator Tollefson made a motion for a Do Pass of SB 2347.

Senator Joel Heitkamp second the motion.

Roll call vote was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Tollefson will carry SB 2347.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis Tollefson
Operator's Signature

10/22/03
Date

Date: 2-14
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2347

Senate Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Tollefson Seconded By Huit

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp	✓	
Senator Layton Freborg	✓				
Senator Stanley W. Lyson					
Senator John T. Traynor					

Total (Yes) 5 No 0

Absent 2

Floor Assignment Tollefson

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Waller Operator's Signature 10/22/03 Date

REPORT OF STANDING COMMITTEE (410)
February 14, 2003 1:04 p.m.

Module No: SF-29-2781
Carrier: Tollefson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2347: Natural Resources Committee (Sen. Fischer, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2347 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SF-29-2781

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Walker
Operator's Signature

10/22/03
Date

2003 HOUSE NATURAL RESOURCES

SB 2347

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/22/03

Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2347

House Natural Resources Committee

Conference Committee

Hearing Date March 21, 2003

Tape Number	Side A	Side B	Meter #
1		xx	5450-end
2	xx		0-312
Committee Clerk Signature <i>Ceri Myer</i>			

Minutes:

Chair Nelson called the hearing relating to guaranteed energy saving contracts to order.

Sen. Thane: Introduced SB 2347. Asked to introduced this bill for the State College of Science.

Rep. Eckre: Introduced SB 2347

Darrin Share: Department of Commerce. (See Attached Testimony)

Peggy Wipf: Testified in support of SB 2347.

Rep. DeKrey moved a Do Pass on SB 2347 seconded by **Rep. Klein**. The motion carried by a vote of 12-0-2. **Rep. Klein** will carry.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming. These records were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/22/03
Date

Date:
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2347

House House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By DeKrey Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Jon O. Nelson	✓				
Vice-Chairman Todd Porter	✓				
Rep. Byron Clark	✓				
Rep. Duane DeKrey	✓				
Rep. David Drovdal	✓				
Rep. Lyle Hanson					
Rep. Bob Hunsakor	✓				
Rep. Dennis Johnson	✓				
Rep. George Keiser					
Rep. Scott Kelsh	✓				
Rep. Frank Klein	✓				
Rep. Mike Norland	✓				
Rep. Darrell Nottestad	✓				
Rep. Dorvan Solberg	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Klein

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanne Hall Operator's Signature 10/22/03 Date

REPORT OF STANDING COMMITTEE (410)
March 20, 2003 1:18 p.m.

Module No: HR-49-5316
Carrier: F. Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2347: Natural Resources Committee (Rep. Nelson, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2347 was placed on the
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-49-5316

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna D. Ballin
Operator's Signature

10/22/03
Date

2003 TESTIMONY

SB 2347

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/22/03

Date

Reference Senate Bill 2347

Fifty-Eighth Legislative Assembly of North Dakota

NDSCS supports the amending of Century Code Section 48-05-11 relating to guaranteed energy savings contracts. The amendment allows a governmental unit to request a waiver of the guaranteed portion of the contract if the savings meet or exceed the payment. My name is Wayne Flack, NDSCS Physical Plant Director, representing the North Dakota State College of Science.

✓ Performance contracting is based on a *decrease in consumption* of utilities as a result of facility improvements. Cost escalation of utilities (price per unit) cannot be either predicted or controlled and is not part of the guaranteed savings. NDSCS entered into a \$2.8 million performance contracting agreement in November of 1999.

✓ NDSCS's guarantee specifies the following decreases in annual units of energy:

Electric Savings	(kWh)	2,272,889 kWh
Natural Gas	(MCF)	22,820 mcf
Water	(Gallons)	1,737,727 gallons

✓ The "cost" of the guarantee is related to the Technical Resource Fee (Measurement and Verification) which is associated with the contractor's monitoring of utility consumption throughout the contract. Monitoring is a requirement of the guarantee. The Technical Resource fee is approximately \$20,000 per year with a built in yearly escalator.

✓ The guarantee does take into consideration factors such as historical utility consumption averages, heating degree days, changes in facility usage, and other aspects of building operation which affect utility consumption.

✓ NDSCS's measurement and verification data indicates the following decreases in utility consumption for 2001-02.

Utility Grouping	PC Guarantee	Actual Savings
Electric Savings (kWh)	21.4 %	22.0 %
Natural Gas Savings (mcf)	15.6	20.0
Water (gallons)	12.1	13.6

Preliminary data shows similar results for 2002-03. Detailed measurement and verification data on file at NDSCS Physical Plant.

✓ NDSCS would save approximately \$165,000 over the remaining seven years of the ten year contract if this amendment is passed. NDSCS would not pursue the waiver of the guarantee until the conclusion of a three year tracking period with realized utility savings.

Thank you for your time and consideration on this amendment.

2/13/03 W:\PERF CONTRACTING\Senate Bill 2347.wpd

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Wayne Flack
Operator's Signature

10/22/03
Date



February 11, 2003

Wayne Flack
North Dakota State College of Science
Patterson Maintenance Center
800 - 6th Street North
Wahpeton, ND 58706-0002

RE: ESG Position on Early Retirement of Technical Resource Services

Dear Mr. Flack:

Energy Services Group (ESG) is aware that the State of North Dakota is currently evaluating changing legislation that applies to Performance Contracting programs. Our understanding of the proposed change is that state facilities would have the option to not renew the annual service contract component of a Performance Contract which provides for the savings guarantee along with other identified support services.

ESG is generally supportive of allowing the customer the option of not renewing the service contract and the associated savings guarantee component of a Performance Contract. ESG takes this position primarily based on the fact that service contracts for the measurement and verification of the savings of a Performance Contract are not profit centers for ESG. Moreover, ESG views that a service contract as a mechanism to provide support services for our clients that we think is important for the success of our projects. The key services include providing documentation that proves that the guaranteed savings are materializing and ensuring that any energy improvements are continuing to be serviced and operated properly.

We believe that some facilities will need these support services more than others. North Dakota State College of Science (NDSCS) has a strong staff that is capable of maintaining and operating the energy improvements. Other institutions may not have this staff expertise and it will be crucial for them to maintain outsourcing some of the mentioned services.

ESG's past experience reflects that if the energy savings have been proven through multiple years of savings at levels equal or exceeding the amount guaranteed, the savings should continue to be realized. This of course is predicated on the assumption that the energy systems continue to be operated and maintained in similar fashion to the way they are under a Performance Contract. Please contact me if any additional clarification is required.

Best regards,

Perry Schmidt

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Perry Schmidt
Operator's Signature

10/22/03

Date

**TESTIMONY ON SENATE BILL NO. 2347
GUARANTEED ENERGY SAVINGS CONTRACTS**

Darin Scherr, P.E., CEM
State Energy Engineer
ND Department of Commerce
(701) 328-1022

Mr. Chairman, committee members, my name is Darin Scherr and I work with energy efficiency and renewable energy programs within the Department of Commerce. My primary function is working with state facilities to reduce their energy consumption. One method of reducing energy consumption and improving facilities is through a program called Guaranteed Energy Savings Contracts (which is also known as performance contracting).

Performance contracting legislation was introduced and passed in 1991 by the 52nd Legislative Assembly. It allows governmental units to improve facilities while reducing energy consumption. A performance contract is implemented by an energy services company which performs a detailed energy audit of the facility, recommends energy conservation measures, and helps to arrange third party financing for the project. I believe that it is important to emphasize that performance contracting updates equipment, improves comfort and working conditions while also reducing energy consumption and cost.

Current legislation requires governmental units to obtain a guarantee from the energy services company for the period equal to the financing term (most are ten years). The guarantee is to ensure that the reduction in energy consumption will meet or exceed the payments to the third party financier. This guarantee does have an annual cost associated with it.

It is common practice in the performance contracting industry to option out of the guarantee if savings are consistently met after a period of 2-3 years. This "early-out"

Page 1 of 2

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Darin Scherr
Operator's Signature

10/22/03
Date

would result in significant savings for the institution for the remainder of the financing period.

Currently in North Dakota, there are approximately \$14 million of state facility energy projects in some phase of performance contracting. These projects will result in excess of \$1.5 million of annual savings to the facilities. The first project implemented on the state level was the North Dakota State College of Science in Wahpeton. The State College of Science has been realizing a reduction in energy for about two years with savings exceeding projections. Representatives from the college are here today to provide testimony on this bill also.

The Department of Commerce, Division of Community Services does support Senate Bill No. 2347 which includes two important provisions: a minimum guarantee period not less than three years, a waiver would need to be approved by a review committee. This committee, including a representative from our office, would be tasked with "auditing" the savings and deciding if the agency would be allowed to discontinue the guarantee.

Thank you.

Mr. Chairman, I'd be happy to answer any questions you may have.

Page 2 of 2

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Walker
Operator's Signature

10/22/03
Date