

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

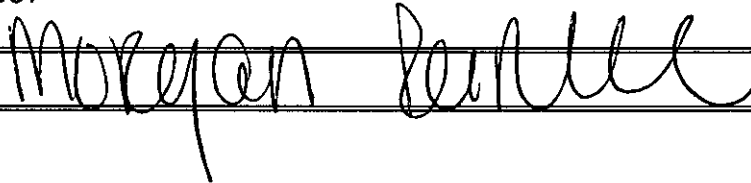
House Government and Veterans Affairs Committee

☐ 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. Gulleason: 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. Gulleason: 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. Gulleason: 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. Gulleason: 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

Morgan Bentel

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 make amendment must - amend

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	X		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 #: 02

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**

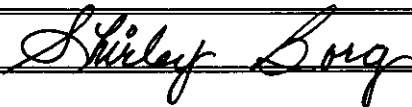
Senate Political Subdivisions Committee

☐ 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



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

TESTIMONY
To the
HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
Of the
NORTH DAKOTA LEGISLATURE

RE: House Bill 1483

By Mike Clemens
Chairman, ND Renewable Energy Partnership
Director, ND Corn Growers Association
February 2, 2007

Chairman Haas and Members of the Committee:

Thank you for this opportunity to submit testimony on House Bill 1483. I am here today to urge your DO PASS vote on this bill that provides for the encouragement to purchase biobased products where practicable. Currently, there are over 600 non-food products that are made from corn. These products range from disposable dinnerware, to diapers, to clothing and tires.

The point I would like to make in my testimony is that small changes by large groups such as government agencies can have a big impact. For example, in November of 2005 WalMart decided to start using clear packaging made from corn for four of its fresh produce containers. That single decision translated into 100 million containers per year for Wal-Mart stores. The use of those 100 million containers saved the US from importing the equivalent of 800,000 gallons of gasoline and reduced green house gas emission by 11 million lbs.

The products used by Wal-Mart are made by Nature-Works, LLC which is based in Minnetonka, Minnesota and is the first company to offer a family of commercially available polymers derived 100 percent from annually renewable resources with cost and performance that complete with petroleum based packaging materials and fibers.

As technology develops and companies like Nature-Works become more common, I look forward to the day that ND will have such a plant that uses ND corn and other agricultural products to make every day products that have traditionally been made from petroleum. My hope would be that I could invest in such a plant further adding value to my corn and the state's economy. A first step is to use these products.

USDA now has a Bio-Preferred program that sets specification and purchasing guidelines for many bio-based products. Joining the bio-based movement at this time will allow ND to take advantage of work that USDA has already done and be ready to participate in other federal programs that encourage the use of bio-preferred products. The ND Renewable Energy Partnership and the ND Corn Growers Association both encourage a DO PASS on this legislation.

Testimony
HB 1483

Presented by: Sherry Neas, State Procurement Manager
OMB, State Procurement Office

Before: Government and Veterans Affairs
Representative Haas, Chairman

Date: February 2, 2007

Good morning, Chairman Haas and members of the committee. My name is Sherry Neas, State Procurement Manager for the Office of Management and Budget.

The North Dakota Renewable Energy Partnership contacted us when this bill was in draft. OMB and the North Dakota University System had an opportunity to collaborate on the bill now before you.

Encouraging the purchase of "environmentally-friendly" products is a best practice in public procurement. The federal government has already implemented programs to encourage purchasing biobased products. If this legislation is enacted, OMB and the North Dakota University System agree that we will conduct research on biobased products to develop the guidelines required by this bill.

OMB prepared the fiscal note. If enacted, this legislation would be implemented with existing staff within OMB, the State Board of Higher Education, state agencies and institutions under the jurisdiction of the State Board of Higher Education.

At this time, we do not know if there will be additional costs to purchase biobased products. This bill requires biobased products to be specified "where practicable." We believe this language gives state agencies and higher education institutions sufficient flexibility to make sound purchasing decisions regarding biobased products, considering environmental concerns and cost.

HB 1483 also "cleans up" this statute by:

- Creating a new, more comprehensive title
- Creating a subsection for each type of environmentally preferred product

This concludes my testimony. I will be happy to answer any questions you may have.

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

**Testimony of Roger Johnson
Agriculture Commissioner
HB 1483**

*Same
given to
Senate*

**House Government & Veterans Affairs Committee
Fort Union Room
February 2, 2007
8:00 am**

Chairman Haas and members of the House Government & Veterans Affairs Committee, I am Agriculture Commissioner Roger Johnson. I'm here today to offer testimony in favor of HB 1483, which would allow the Office of Management & Budget to develop a bio-based procurement program in coordination with the State Board of Higher Education.

The market for bio-based products has grown rapidly in recent years and will continue to expand as we work to lessen our dependence on foreign sources of oil. Companies and consumers are seeking alternatives to petroleum-based industrial products and bio-based products are being developed to fit that need.

The federal government has already stepped forward to promote the use of bio-based products with the creation of a federal bio-based procurement program via the Farm Security and Rural Investment Act of 2002. The United States Department of Agriculture has developed a

"BioPreferred" program, which provides federal agencies with information to help them meet various federal requirements to purchased bio-based products. I have attached information from the "BioPreferred" website and also a list of product categories that have been identified through the program. USDA also works with companies to help designate their products as bio-based.

HB 1483 provides the Office of Management & Budget direction and authority to create a bio-based procurement program in North Dakota that will complement what is being done on the federal level. Establishment of this program will provide North Dakota companies with new markets and alternatives to sell their products and will provide an incentive for future development of bio-based products.

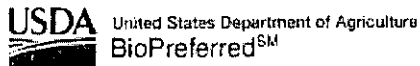
Creation of this program in North Dakota will also complement an effort to establish a regional market for bio-based products through the Midwestern Association of State Departments of Agriculture's newly formed North Central Bioeconomy Consortium (NCBEC). The Consortium is just now organizing and is comprised of the agriculture commissioners, agricultural experiment stations and cooperative extension systems in Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Minnesota, North Dakota, Nebraska, Ohio, South Dakota and Wisconsin.

The members of the consortium will aim to do the following:

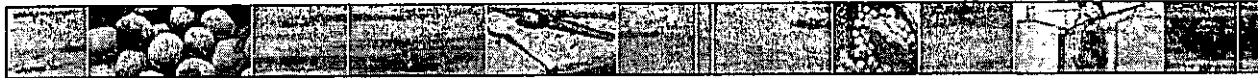
- Expand the use of biomass in the Midwest to replace fossil fuels and the production of energy, fuels, and products.
- Identify opportunities for regional collaboration on issues affecting the bioeconomy.
- Raise the profile of the bioeconomy in the media and among policymakers.

- Facilitate better information-sharing and dissemination of reliable information about the bioeconomy.
- Organize a coordinated regional approach for working with the Department of Energy, US Department of Agriculture and other federal agencies.
- Develop a regional approach for attracting venture capital investment for projects that advance the bioeconomy.
- Reach consensus on regional policies (such as preferential purchase agreements) for encouraging the use of biomass.
- Share resources and expertise that mutually advances each of the North Central states' bioeconomy.
- Create a clearing house for information and materials.

Opportunities abound in this new bioeconomy and establishment of a bio-based procurement program will pave the way for more opportunity for North Dakotans and North Dakota businesses. Therefore, Chairman Haas and committee members, I would like to recommend a "do pass" on HB 1483. Thank you for this opportunity to offer testimony. I would be happy to answer any questions you may have.



BioPreferred provides federal agencies with information that will help them meet requirements to purchase biobased products.



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BioPreferred

Welcome to the BioPreferred website. This site was designed as a resource for producers of biobased products, federal agencies required to purchase them, and others interested in renewable products. It includes information on submitting products for designation, instructions on meeting requirements to purchase biobased materials, and many other useful topics.

The Farm Security and Rural Investment Act (FSRIA) was signed into law in 2002. A goal of that legislation is to increase the government's purchase and use of biobased products. In addition to lessening our national dependence on foreign oil, use of biobased materials promotes economic development by creating new jobs in rural communities and providing new markets for farm commodities.

As part of the FSRIA mandate, the U.S. Department of Agriculture was directed to develop and implement a comprehensive program for designating biobased products. The USDA has already designated several items as "preferred," and will be adding significantly to that list in the coming months. Many government agencies are now using these products, and have found them to have comparable or superior performance to their petroleum counterparts.

[... More Information](#)

I Want To...

- ☐ List my biobased product
- ☐ Sell to Federal Government
- ☐ Comment on a Proposed Rule
- ☐ Participate in Pilot Program Exchange
- ☐ Find biobased products
- ☐ Learn about USDA's Model Procurement Program
- ☐ Learn who is using the biobased Products
- ☐ Ask a Question

In the News

- ☐ USDA posts comments for Round 4
- ☐ USDA posts comments for Rounds 2 and 3
- ☐ USDA Designates 10 Biobased Items for Federal Procurement

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USDA “Bio-Preferred” Product Categories

Hydraulic Fluids (Mobile Equipment)
Penetrating Lubricants
Roof Coatings
Bedding, Bed Linens, and Towels
Water Tank Coatings
Diesel Fuel Additives
Metalworking Fluids
Hand Cleaners and Sanitizers
Grease and Graffiti Removers
Fertilizers
Composite Panels
Sorbents
Adhesive and Mastic Removers
Fluid-filled Transformers
Biodegradable Containers
Insulating Foams for Wall Construction
Hydraulic (Stationary Equipment)
Greases
2-Cycle Engine Oils
Biodegradable Films
Carpet and Upholstery Cleaners
Dust Suppressant
Lip Care Products
Glass Cleaners
Greases (Multi-Purpose)
Carpets
Greases (Rail Track)
Biodegradable Cutlery
Greases (Truck)
Greases (Food Grade)
Cutting, Drilling, and Tapping oils (Neat)
Concrete and Asphalt Form Release
Wood and Concrete Sealers
Fire Arm Lubricants
Bath and Tile Cleaners
Laundry Products (Pretreatment or Spot removers)

Floor Strippers
Clothing
De-Icers
Durable Plastic Films
Laundry Products (General)
Chain and Cable Lubricants
Industrial Solvents
Industrial Cleaners
Corrosion Preventatives
Household Cleaners
Parts Wash Solutions
Gear Lubricants
Forming Lubricants
Food Cleaners
Multi-Purpose Cleaners
Bath Products
Multi-Purpose Lubricants
Paint Removers
Gasoline Fuel Additives
Disposable Tableware
Ink Removers and Cleaners
Thermal Shipping Containers
Water Turbine Bearing Oils
Specialty Cleaners and Solvents
Printing and Writing Papers
Microbial Cleaners
Metal Cleaners
Herbicides
Hair Care Products
Floor Cleaners
Air Fresheners and Deodorizers
Dishwashing Detergents
Concrete and Asphalt Cleaners
Personal Insect Repellents
Slide Way Lubricants
Animal Repellents
Blast Media
Rubber Conditioners

Candles
Medical Care products
Sanitary Tissues
Furniture Cleaners and Protectors
Hydrocarbon Spill Remediation Materials
Lotions and Moisturizers
Electronic Components Cleaner
Interior Paints and Coatings
Packaging Materials
4-Cycle Engine Oils
Rope and Twine
Polyurethane Coatings
Skin Care Products
Automotive Care Products
Erosion Control
Oven and Grill Cleaners
Exterior Paints and Coatings
Molded/Blown Composites
Compost
Heat Transfer Fluids
Specialty Inks
Wastewater Treatment Chemicals
Turbine Drip Oils
Fuel Oil
Filters
Heating and Cooling System Cleaners
Insecticides
Mulch
Oral Care Products
Sealants
Pond Cleaners
Durable Foams
Expanded Polystyrene Foam Recyclers
Blended Vegetable Oils
Intermediates
Natural Wax
Raw Materials
Surfactants and Emulsifiers

Vehicle Wash Products
Plastic Product Precursors
Machine Oils
Leather, Vinyl, and Rubber Care Products
Animal Care Products
Total-Loss Lubricants
Marine Products
Biodegradable Foams
Drain Cleaner
Specialty Chemicals
News Inks (Color)
Shipping Pallets
Air Tool Lubricants
Power Steering Fluids
Industrial Adhesives
Lavatory Flushing Fluid
Waste Water Systems Coatings
Adhesive Additives
Soybean Oil
Fiber-based Furniture
Concrete & Asphalt Sealers/Coatings/Restores
Building Materials
Environmental Control Mats
Fiber Composites
Polymer Coatings
Aquaculture Products
Toys
Interior Wall and Ceiling Patch
Scrubbing Pads
Cosmetics
Sheet-Fed Inks
Sun Care Products
Floor Coverings (Non-Carpet)
Deodorant
Aromatherapy
Composite Packaging Materials
Forms Inks
News Inks (Black)

Heat-Set Inks
Lumber Substitutes
Solid Fuel Additives
Natural Dyes
Tank Cleaner
Printing Chemicals
Artistic Supplies
Suspected Not Biobased
Concrete Curing Agents
Transmission Fluids
Hair Removal Products
Bioplastic Cards
Fire Retardants
Synthetic Fibers
Woven Fiber Products
Compostable Molded Products
Home and Office Adhesives
Jewelry Cleaner
Aircraft Cleaners
Food Coatings
Metal Foundry Mold Release
Polymer Based Consumer Products
Water Soluble Polymers

Source: <http://www.biobased.oce.usda.gov> 1/30/07

**Testimony in Support of HB 1483: Procurement of Environmentally Preferable Products
Before the House Government and Veterans Affairs Committee
February 2, 2007**

**Brad Crabtree
Program Director
Great Plains Institute
(701) 647-2041
bcrabtree@gpisd.net**

Chairman Haas and members of the Government and Veterans Affairs Committee, thank you for the opportunity to testify in favor of HB 1483. I also want to thank Representative Gulleson and the other sponsors for introducing this important bill.

My name is Brad Crabtree. I am program director of the non-profit Great Plains Institute with offices in North Dakota and Minnesota. The Great Plains Institute staffs a regional Biomass Work Group with over 50 participants from industry, farm organizations, research institutions, state governments and conservation groups from six Upper Midwest states and one Canadian province. We promote state policies and support projects that demonstrate the production of energy, chemicals and bio-products from biomass to help grow our region's rural economy, increase our energy security and provide environmental benefits.

The legislation before you advances a key component of our Work Group's recommendations to state policy-makers: pooling the purchasing power of North Dakota and other states in the region to help jumpstart the bio-economy through government procurement of bio-based products.

North Dakota is on the cusp of exciting bio-energy opportunities. Today, we produce ethanol from corn and biodiesel from soybeans and oilseeds. Tomorrow, we will use not only the corn and oilseeds to produce liquid fuels, but also the cellulose from the rest of the plant, whether from crop residues such as corn stover and wheat straw, or from dedicated energy crops such as perennial grasses. However, the promise of the bio-economy is not limited to liquid fuels. Scientific ingenuity and public and private investment are bringing exciting new bio-based products to the marketplace.

So, what is a bio-based product? The USDA defines it as a commercial or industrial product, other than food or feed, which is composed, in whole or in significant part, of biological products or renewable domestic agricultural materials or forestry materials. Some of you may have seen, for example, products manufactured with corn-based plastics, such as plastic bags that Wal-Mart has committed to use at its checkout counters. Even more exciting products are on the horizon. Research at NDSU is preparing for the day when cellulosic nano-whiskers, a bio-composite produced from wheat straw, can replace non-renewable industrial products such as fiberglass.

Here are categories of bio-based products that USDA has already approved for procurement by federal government agencies:

- Adhesives;
- Construction materials and composites;
- Fibers, paper and packaging;
- Fuel additives;
- Landscaping materials, compost and fertilizer;
- Lubricants and functional fluids;
- Plastics;
- Paints and coatings;
- Solvents and cleaners;
- Sorbents; and
- Plant and vegetable inks.

According to recent analysis by the National Renewable Energy Laboratory, North Dakota is top-ranked in biomass production potential. In addition to corn, soybeans, oilseeds and other commodities that can be used to manufacture bio-based products, our state has the potential to supply more than 17 million metric tons of biomass annually from crop residues, native grasses and other feedstocks. Beyond income from agricultural production, North Dakota has the potential to develop biorefining and manufacturing of bio-products to complement our rapidly growing biofuels industry, providing well-paying jobs in the rural areas of our state that most need them.

Why is this legislation important? Government can play an early and strategic role in the development of new industries through the stimulus of its purchasing power. For example, North Dakota took just such a step with state purchases of ethanol for the state vehicle fleet. On the bio-product front, USDA's federal procurement program has designated 36 bio-based products, with more to come. Illinois has adopted bio-procurement rules, and the sponsors of this bill join legislators in Iowa and Minnesota who have introduced similar legislation. These state and federal efforts can help create needed market pull to bring more bio-products into the commercial mainstream.

This bill is responsible. It encourages the Office of Management and Budget and other state agencies to purchase bio-products where practicable. This gives state officials the discretion to make wise decisions regarding cost, quality and availability, while still supporting new markets and industries of future benefit to North Dakota.

Thank you for the opportunity to testify on behalf of this bill. I respectfully urge a do-pass recommendation on HB 1483.

att #2

Testimony
To the
Senate Political Subdivisions
Of the
North Dakota Legislature

Re: House Bill 1483

By: Mike Clemens
Chairman, ND Renewable Energy Partnership
Director, ND Corn Growers Association
March 15, 2007

Chairman Cook and Members of the Committee,

Thank you for the opportunity to submit testimony on House Bill 1483. I am here today to urge your DO PASS vote on this bill that provides for the encouragement to purchase biobased products where practicable. Currently, there are over 600 non-food products that are made from corn. These products range from disposable dinnerware to diapers to clothing and tires.

The point I would like to make in my testimony is that a small change by large groups such as government agencies can have a big impact. For example, in November of 2005 Wal-Mart decided to start using clear packaging made from corn for four of its fresh produce containers. That single decision translated into 100 million containers per year for Wal-Mart stores. The use of those 100 million containers saved the US from importing the equivalent of 800,000 gallons of gasoline and reduced green house gas emission by 11 million lbs.

The products used by Wal-Mart are made by Nature-Works, LLC, which is based in Minnetonka, Minnesota and is the first company to offer a family of commercially available polymers derived 100 percent from annually renewable resources with cost and performance that compete with petroleum based packaging materials and fibers.

As technology develops and companies like Nature-Works become more common, I look forward to the day that North Dakota will have such a plant that uses ND corn and other agricultural products to make every day products that have traditionally been made from petroleum. My hope would be that I could invest in such a plant further adding value to my corn and the state's economy. A first step is to use these products.

USDA now has a Bio-Preferred program that sets specification and purchasing guidelines for many bio-based products. Joining the bio-based movement at this time will allow ND to take advantage of work that USDA has already done and be ready to participate in other federal programs that encourage the use of bio-preferred products. The North Dakota Renewable Energy Partnership and the ND Corn Growers Association both encourage a DO PASS on this legislation.

Testimony
HB 1483

Presented by: Sherry Neas, State Procurement Manager
OMB, State Procurement Office

Before: Senate Political Subdivisions Committee
Senator D. Cook

Date: March 15, 2007

Good morning, Chairman Cook and members of the committee. My name is Sherry Neas, State Procurement Manager for the Office of Management and Budget.

The North Dakota Renewable Energy Partnership contacted us when this bill was in draft. OMB and the North Dakota University System had an opportunity to collaborate on the bill now before you.

If this legislation is enacted, OMB and the North Dakota University System agree that we will conduct research on biobased products to develop the guidelines required by this bill. Encouraging the purchase of "environment-friendly" products is a best practice in public procurement. The federal government has already implemented programs to encourage purchasing biobased products.

OMB prepared the fiscal note. If enacted, guidelines will be written with existing staff within OMB and the State Board of Higher Education, in consultation with state agencies and institutions under the jurisdiction of the State Board of Higher Education.

This legislation will impact all agencies and institutions in the executive branch of state government. Considering whether a biobased product can be specified will become a new step in the procurement process.

We cannot estimate whether there will be additional costs to purchase biobased products. The language in line 19 of the engrossed bill states that biobased products should be specified "where practicable." This language gives state agencies and higher education institutions sufficient flexibility to determine whether specifying biobased products is feasible, considering factors such as effectiveness, cost, and availability.

HB 1483 also "cleans up" this statute by:

- Creating a new, more comprehensive title; and
- Organizing the statute into subsections for each type of environmentally preferred product.

This concludes my testimony. I will be happy to answer any questions you may have.

Definition:

Practicable - 1) that can be done or put into practice; feasible 2) that can be used; usable; useful.

(**Practical** stresses effectiveness as tested by actual experience. **Practicable** is used of something that appears to be capable of being put into effect, but has not yet been developed or tried.)

[Webster's New World Dictionary, 1976)

Presidential Documents

Title 3—

Executive Order 13101 of September 14, 1998

The President

Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Solid Waste Disposal Act, Public Law 89-272, 79 Stat. 997, as amended by the Resource Conservation and Recovery Act (RCRA), Public Law 94-580, 90 Stat. 2795, as amended (42 U.S.C. 6901-6907), section 301 of title 3, United States Code, and in order to improve the Federal Government's use of recycled products and environmentally preferable products and services, it is hereby ordered as follows:

PART 1—PREAMBLE

Section 101. Consistent with the demands of efficiency and cost effectiveness, the head of each executive agency shall incorporate waste prevention and recycling in the agency's daily operations and work to increase and expand markets for recovered materials through greater Federal Government preference and demand for such products. It is the national policy to prefer pollution prevention, whenever feasible. Pollution that cannot be prevented should be recycled; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner. Disposal should be employed only as a last resort.

Sec. 102. Consistent with policies established by the Office of Federal Procurement Policy (OFPP) Policy Letter 92-4, agencies shall comply with executive branch policies for the acquisition and use of environmentally preferable products and services and implement cost-effective procurement preference programs favoring the purchase of these products and services.

Sec. 103. This order creates a Steering Committee, a Federal Environmental Executive (FEE), and a Task Force, and establishes Agency Environmental Executive (AEE) positions within each agency, to be responsible for ensuring the implementation of this order. The FEE, AEEs, and members of the Steering Committee and Task Force shall be full-time Federal Government employees.

PART 2—DEFINITIONS

For purposes of this order:

Sec. 201. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

Sec. 202. "Executive agency" or "agency" means an executive agency as defined in 5 U.S.C. 105. For the purpose of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

Sec. 203. "Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. "Postconsumer material" is a part of the broader category of "recovered material."