

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1098

2011 HOUSE STANDING COMMITTEE MINUTES

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

HB 1098
January 7, 2011
12647

Conference Committee

Committee Clerk Signature *Carmen Hart*

Explanation or reason for introduction of bill/resolution:

Relating to OMB adopting and amending policies

Minutes:

Chairman Bette Grande opened the hearing on HB 1098.

Pam Sharp, Director of OMB (Office of Management and Budget), appeared and explained HB 1098 and asked for concurrence of this bill. It is basically a cleanup bill. There are two sections of law that were added during the 2009 legislative session. Number 3 on the bottom of the first page of the bill was added last year. The very last sentence stated the Office of Management and Budget did say shall adopt rules establishing the terms under which executive agencies may charge a service fee under this subsection. The subsection is dealing with agencies allowing credit cards, and as you all know, there is a transaction fee when someone uses a credit card. Previously to this being passed, agencies were not allowed to get back that service charge. They just need to eat it. They are allowed to charge a service fee and OMB needs to establish the terms under which they may charge that service fee. We would like to change the rules to policies, because rules could be interpreted as going through the administrative rules procedure and that would not be appropriate. OMB is an agency that is exempt from administrative rules, but we have OMB fiscal policies. The purpose of those policies is to make every agency do their accounting things consistently. It is not a law, but the auditor's office does hold agencies accountable to our fiscal policies. It is just more appropriate to have a policy for this and how agencies would charge a service fee under this subsection and not go through the rulemaking process. Section 2 is basically the same thing. This is language added from two years ago as well. It deals with setting the mileage reimbursement rate as the same as the GSA rate for the feds. We are currently doing this under our OMB policies. There would be no point to go through an administrative rulemaking process for this anyway. When the GSA rate changes, we change our policy to say that state agencies will now charge this rate.

Chairman Bette Grande: OMB is completely exempt from administrative rules?

Pam Sharp: We are exempt from except for relating to the conduct on the capitol grounds and in buildings, relating to the classified service, and for procurement rules.

Chairman Bette Grande: In this Section 2 when we are talking about the motor vehicle piece, how often does GSA change their rate?

Pam Sharp: Just lately they changed it. You know maybe they change it once a year. I don't think it is on any consistent basis. Now it went from 50 cents a mile to 51 cents a mile.

Chairman Bette Grande: If we were to require that to go through administrative rules, you would have to be rewriting that possibly every other year or every year or even quarterly if the federal government decided to make a change, you would have to try to go through the rulemaking process which is a lengthy process of which we would not get the reimbursement or we would have to go into retro on reimbursements?

Pam Sharp: Correct.

Chairman Bette Grande: Would that also then apply possibly to the service fees you are talking about? Is that changed very often by industry?

Pam Sharp: I think with the service fees what we would do is we would just try to make every agency be consistent. Maybe our policy would be to you can't charge a fee greater than the actual service or something like that. It would be just a matter of everyone being consistent. That wouldn't necessarily have to be changed all the time.

Rep. Karen Rohr: How would that be operationalized then?

Pam Sharp: Every agency has a copy of our OMB policies, and it is on our website. Every time we have a new policy or change of policy, we send that out to every agency so agencies are out to the fiscal person and to the agency head, so agencies are always aware of any OMB policy changes.

Vice Chairman Randy Boehning: How much are the fees that the credit cards charge—percentage, flat rate like a buck a transaction?

Pam Sharp: Generally, I believe it is a percentage, and I couldn't tell you what the percentage is. I know it varies by credit card company.

Vice Chairman Randy Boehning: What is costing the state currently? What is costing the agencies? Is it costing them thousands of dollars, tens of thousand dollars? What is costing the state to absorb the fees?

Pam Sharp: I really don't have that answer. The largest agency that is allowing credit cards is the DOT, because they allow credit cards for motor vehicle registration and license fees. They do not charge an additional fee. They just eat it, but that is within their special funds. It doesn't come out of the general fee. My concern would be some of the general fund agencies that would be allowing a credit card. If they don't charge a service fee, then you know it comes out of their general fund appropriation.

Chairman Bette Grande: Which means the taxpayers would be paying for it.

Vice Chairman Randy Boehning: Every time you go and get a bill, you come to the state and pay and all of a sudden you get another fee on there. I certainly don't want to be the person _so you have an extra fee on here because it probably is going to cause more problems than anything. We maybe have to put some language in that says they can't charge any more than what the actual cost is.

Pam Sharp: Those are some of the kinds of policies that we would put into effect as an OMB policy. That would be the logical one—that agencies could never charge more than what their actual cost is to accept that credit card. We have not put anything in place at this time. The Bank of North Dakota is the bank of record for choosing the credit card. We would actually work with the Bank of North Dakota, and if they choose a credit card company that everyone in the state uses, we would base our policies on whatever their agreement is with that credit card company. I totally understand what you mean. That is why we do need to have some policies. Those are the kind of policies that we do at OMB to make every agency consistent in their accounting procedures.

Rep. Lonny Winrich: First of all, I think what may just be an oversight on Page 1, Line 20, the sentence starts with a qualifying clause and then it says in accordance with rules adopted by the Office of Management and Budget, etc. Should that be changed to policy?

Pam Sharp: As I was reading this before I came down here, I noticed that too. That is an oversight on our part. That rules should also be policy.

Rep. Lonny Winrich: It is my understanding from conversations with constituents who are business people and so on that in order for a business to accept a credit card, it must agree with some of the conditions that the credit card company puts on it. One of those conditions is that they may not charge more for an item if someone pays by credit card rather than by cash. If the credit card company finds out that they are, they will no longer be allowed to accept that credit card. Does that consideration come in here with respect to the state at all?

Pam Sharp: That is a good question. I am not aware of that law. We would work with the Bank of North Dakota to make sure that our policies in compliance with whatever the credit card company's terms are. The Bank of North Dakota would likely have a contract with the credit card company.

Rep. Glen Froseth: Making this permissive if you didn't establish the policies, what policies would be in effect?

Pam Sharp: If we didn't establish the policies, there would be no policies in effect. At this point there are no policies in effect and no agencies are charging that transaction fee. I presume if we didn't have any policy in effect, agencies would not be allowed to do that because they would have to follow the policies. I don't think agencies would be allowed to charge a fee until we had policies for them to follow.

Rep. Glen Froseth: Making it permissive you still should set policy. You think that permissiveness there is necessary? Then on Line 5 on the second page, you shall adopt policies in regard to the Motor Vehicle Department.

Pam Sharp: I would agree with that. I am very comfortable with having shall in there on Line 1—that we shall adopt the policies.

Rep. Glen Froseth: Change that may back to shall?

Pam Sharp: I would support that. I think that would be appropriate.

Rep. Karen Rohr: To clarify that, Pam, what you are saying is when you use the term shall that makes it nonnegotiable?

Chairman Bette Grande: Correct. She must do it.

Rep. Karen Rohr: May puts it a little bit more gray.

Chairman Bette Grande: May gives her the option as to whether or not they want to write policy. Shall means she has to write policy. It is a strange word, because we don't look at shall as something...it took me my first couple sessions. No, shall means I have an option. Shall means must.

Rep. Karen Rohr: To me that means don't use shall or may—The Office of Management and Budget adopts policies. I would have just left it out, but I understand now what the language is.

There was no one neutral or in opposition of this bill. The hearing was closed.

Rep. Glen Froseth: I would propose the amendments to change the word on Page 1, Line 20, the last word there, rules to policies and on Page 2, Line 1, remove the overstrike on shall and remove the word may.

Rep. Lonny Winrich seconded the motion.

A voice vote was taken to adopt amendment. Motion carried.

Vice Chairman Randy Boehning: After looking at this now, they are going to be adopting the policies to collect fees. Are we going to need a fiscal note on this, and I would really like to know how much money we are talking about with these agencies? Is it a \$1,000, \$10,000, \$100,000?

Chairman Bette Grande: You mean are you looking at an increased revenue piece of fiscal note?

Vice Chairman Randy Boehning: I am guessing that it is going to be an increase in revenue if they are even it now. I think we should have a fiscal note on this.

Pam Sharp: It already says that they may charge a fee so the changes that we are making right now are just that we would establish the policy for how they do that fee. The agencies may charge a fee so that is not a shall either. Some agencies may choose to and some may choose not to. I think a fiscal note would be really difficult to obtain. For instance, with DOT I don't know if they plan on doing it or not. We could probably find out how much business they do with credit card transactions, but I don't know that we could speak for them whether they are going to choose to charge a fee or not.

Rep. Gary Paur: I believe credit cards are so ___ because I wouldn't doubt by using credit cards, the state is saving money. You get a credit card transaction—that money is deposited, I believe, in the DOT's account that day. You write a check and there is that whole process of clearing and the check may not be good. That is why some places do not accept checks. Credit cards they will accept, because that money they receive that day. You lose, closer to 2 percent, by taking checks, and bad checks and collections and everything else, you might run up to 5 to 10 percent.

Chairman Bette Grande: I think once we have a standard policy and this is how agencies can be able to do business with the citizens, the citizens will find a fluid way of doing business with the state to do that for consumer purposes. I don't see that this is a burden to the taxpayer at all. I see it as an asset to the taxpayers to be able to utilize this type of program.

Rep. Karen Rohr: I think the point here is how is that going to be accounted for? Is it in the budget as a line item that this is the amount that the service fees that the credit cards entail and this is how we are getting it back?

Pam Sharp: It would be accounted for in the agency. There wouldn't be a separate line item. The agency would accept the credit card. They would get that money available immediately minus the 2 percent, but at the same time if they were choosing to charge a fee, then they would collect the 2 percent from the customer. They would be whole.

Rep. Glen Froseth: I think it would be a savings to most agencies. If you order your hunting or fishing license online using your credit card, there are no return postage envelopes or labor involved in sending that out by general mail. That is just a simple transaction, but I think it would be a savings to most departments by being able to do it over the internet and through a credit card payment system rather than the slow mail.

Rep. Lonny Winrich: I certainly agree with Rep. Froseth, and I think probably DOT's renewal of vehicle licenses comes under the same sort of consideration. I have long thought that we could increase revenues to the state significantly if the Tax Department were allowed to accept credit card payments and set up an online system for collecting use taxes for out-of-state purchases. Under the present system because they are a general fund agency, there is a serious problem with that. I think this would be a very good bill.

Vice Chairman Randy Boehning: One of the concerns I have is there is nothing in here that says what to charge, what the maximum charge is. They could be charging \$5 to use the credit card. I think we need to have some language in there that they can't charge any more than what the credit card companies allow just to recoup the fees.

Chairman Bette Grande: The credit card companies, as Rep. Winrich had pointed out, there are terms. At one time when we had a business, I had a credit card thing where we would swipe, and I would charge that to the customers. I had terms that I had to follow. Otherwise, I would have my little credit card swiper thing taken away from me. There are terms and conditions that have to be adhered to or you lose your privileges with that credit card company. The Bank of North Dakota would be the one filtering through and deciding which credit cards that we would be accepting by the state. I picked up my dry cleaning this morning. She said I can accept your visa but I don't accept mastercard. That is determined by either the consumer that is consuming with the credit card company—I as a business owner or that mastercard doesn't want to do business with that small business. Credit card companies, companies that they are working with as their consumers, they have terms and conditions that are set. You don't get to say I am going to accept visa in my store here, and by the way, to use your visa, I am charging you \$20 every time you swipe it. You don't have that ability. Her policies are going to have be written on terms that are equal to what is going to be acceptable by the credit card. This policy portion is going to make it across the board this is how state government is going to do their business.

Vice Chairman Randy Boehning: There is nothing in here that we can charge more or less than what the fee is. We should get some language in there that would say that if mastercard charges 2 percent, that is all that would be allowable.

Chairman Bette Grande: I don't know if I need Bank of North Dakota here that deals with this, but I am pretty sure—I don't know of a credit card company that doesn't have those exact policies. That is why when you look on the back of your credit card, it tells you exactly what it is going to be. You know that it is the consumer who uses that particular credit card, but the company that accepts credit cards also knows the terms they are utilizing.

Vice Chairman Randy Boehning: I think we need to visit this a little bit more. If the credit card company says we can go ahead and charge a fee, they don't specify at 2 percent or \$5 or whatever it is. If there is a policy out there from the credit card company that says you can't charge a fee, there is no problem. If they say that we can charge a fee, do they have a maximum amount fee that they can charge or are we going to have one agency charging a \$1 a transaction, enough to recoup what the cost was?

Chairman Bette Grande: You want language in that states they can't charge more than the credit card?

Vice Chairman Randy Boehning: That is what I am looking for.

Rep. Karen Rohr: Just to kind of help Rep. Boehning out. I think what he is saying is if Pam's department is going to negotiate with the Bank of North Dakota on the type of credit card we are going to be using, they will know what the service charge is going to be. I think what he is saying is that the language could just say that it will not exceed the service charge as deemed by the credit card company and if there is no service charge, then what would the state do—not charge anything at all or would they still impose a cost or a fee?

Chairman Bette Grande: I don't know of a credit card company that would ever go without charging. If the committee is not ready to address this and you want to work on an amendment, why don't we take this up on Thursday.

Rep. Lonny Winrich: As you said, the way the credit card company makes money is by getting people to use their credit cards, so they definitely are going to charge a fee. It may very well be on a percentage basis. It may be a flat fee. My understanding from talking with other people is that the fee, in fact, can vary with the volume of business that you bring to that credit card. I think this is a very inappropriate thing to put in statute. I think it would be much better addressed by the policies adopted by OMB, and I would be opposed to an amendment that sets some sort of restriction on the fee.

Rep. Glen Froseth: Being this was discussed in committee discussion with the presence of OMB here, wouldn't the legislative intent of the discussion be adequate to cover? If there was misuse or abused, it could go back to the legislative intent of the committee discussion and reviewing the bill.

Chairman Bette Grande: I am going to allow Ms. Jeffcoat-Sacco to speak to this issue, because I think their department utilizes this a little bit.

Illona Jeffcoat-Sacco, General Counsel, Public Service Commission appeared. I appreciate the opportunity. I was not preparing to testify and I know the hearing is closed. I asked to stand up to ask for a little time. We do not use credit cards. It is because of the cost, but we constantly each biennium look at whether we should go to that, and how would we recoup the additional cost because it is a convenience. My concern that I have not had an opportunity to speak to the commission about and we meet at 11, so I am hoping I will be able to do it at 11, is just the difference between making the policy versus the rulemaking. I was a minute late, but I didn't hear much discussion on that. What I do think is important from that thought process is that much of what you are talking about now can be brought in by stakeholders whether it is agencies, businesses, or consumers during that rulemaking process. That is what rulemaking does for government is allow that input. That is what I want to ask the commission about is whether they have a formal concern to bring to your attention about changing the rules to policies. **Attachment 1 was brought to committee clerk a few days after the hearing date.**

Chairman Bette Grande: Committee, we'll just put this on hold until next week.

The meeting was adjourned.

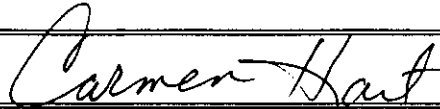
2011 HOUSE STANDING COMMITTEE MINUTES

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

HB 1098
January 13, 2011
12884

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Create and enact a new section relating to a state compensation philosophy statement and to provide for implementation of changes to the classified employee compensation system.

Minutes:

Chairman Bette Grande opened the meeting. An amendment was presented. **Attachment 1.**

Chairman Bette Grande: This was the bill where we were dealing with the credit card payments by the state agencies and collection of the fees. Rep. Boehning has been working with Ms. Sharp to come up with a workable plan. In speaking with Ms. Sharp also throughout this process, I think this is a much clearer plan.

Vice Chairman Randy Boehning: I had a little heartburn with the bank doing policy with fees and so forth with credit cards. Basically we are taking everything to do with credit cards to the Bank of North Dakota. The Bank of North Dakota will set up the fees. Of course, they will have to work with the credit card agencies if they are allowed to do fees. I have only seen three listed on the website—Visa, Mastercard, and Discover. The Bank of North Dakota will make rules. It is going to take it out of OMB's hands. They are happy to get rid of it.

Rep. Glen Froseth: On Page 2, Line 8, the director shall amend the policies when necessary—on Page 2, does Line 5-10 become__ then?

Vice Chairman Randy Boehning: We don't do anything with Section 2. Section 2 stays just as it is. That stays in policy for the GSA and the mileage. That fluctuates. That changes every six months. It just deals with Section 1 of the bill.

Chairman Bette Grande: Section 1 deals with the credit card, Section 2 with policy for reimbursement of mileage.

Rep. Bill Amerman: Is there going to be any heartburn? It seems a little unusual that the Bank of North Dakota is going to make rules in which executive agencies basically have to follow. Has that been done? Is that kind of normal?

Vice Chairman Randy Boehning: I don't know whether it is unusual, but I think we have to put it someplace because OMB really doesn't deal with this. The Bank of North Dakota deals with banking issues. They're the ones that deal with the credit cards. We need to have something out there that establishes a set fee, so we don't have each agency coming with a different price and charges and so forth. The bank will know if they will be able to charge a fee or not.

Chairman Bette Grande: One of the things we can keep in mind is when Ms. Sharp was speaking to this, she said it is the Bank of North Dakota who establishes which credit cards would be utilized in the state. Since they are the agency that does that, they should be the ones that decide on the rulemaking process. Her job is then to make sure that policy is pushed out to everybody in the agency so that everybody stays on the same page.

Rep. Lonny Winrich: Has the Bank of North Dakota agreed to this?

Chairman Bette Grande: They are the ones, I believe, that currently do this. Only they just haven't written it in rule.

Vice Chairman Randy Boehning: On Section 1, Number 2, the Bank of North Dakota is the state credit card administrator for credit card transactions of state agencies, boards, or commissions so they are the ones that do take care of the credit cards. OMB would be out of it totally.

Rep. Lonny Winrich: The other question I have is related to Rep. Amerman's thoughts. Administrative rules are normally adopted by executive agencies. The Bank of North Dakota isn't really an executive agency. I am wondering if they are allowed to adopt administrative rules.

Chairman Bette Grande: I think they are under the rulemaking process, but we will look it up in Code here to double check.

Rep. Gary Paur: I concur with Lonnie's concern. Somebody should have talked to the Bank of North Dakota.

Chairman Bette Grande: Do you know was Ms. Sharp in communication with them as she was doing these amendments?

Vice Chairman Randy Boehning: That I am not sure of. She said they handle all the credit card things. When I talked to the Council, Council says if the legislature directs an agency or someone to make rules, they are to adopt rules. It is our discretion who adopts rules and who doesn't adopt rules.

Chairman Bette Grande: It has been a number of years since I have been on the Rules Committee. Do we not have boards that come in front of the Rules Committee? We have multiple boards that bring in rules. They are not agencies, and they are writing rules.

Vice Chairman Randy Boehning: We have the chiropractors. We have the whole list.

Rep. Roscoe Streyle: I don't understand why the bank is going to make interchange income on this visa transaction. I think we need to know the numbers of what the expense is, the agencies, as opposed to let them charge a fee. I would say, my opinion is they just eat it. Of course, that is general fund coming out of the taxpayers too. Banks do make money off interchange incomes from credit cards. They will benefit from this. It is not going to be a major amount of money, but they do.

Chairman Bette Grande: I think for me as I look at it—I want to take an agency that deals with larger amounts, not just the small amounts, like DOT. You might have some agencies that have larger purchases back and forth. Mill and Elevator keeps coming to mind. You might have a buyer that is coming in. It is not a \$5 purchase. This is thousands. They can't utilize this because we don't want the State Mill and Elevator to lose money. We want the State Mill and Elevator to break even or make money. Their hands are tied to be able to make the proper transactions in a timely fashion. Later on we are going to hear about the check process and what it is like to have state agencies deal with checks and the costs to that. I think that will open your eyes a little bit to some of this. That instant payment, not having to chase that down is going to be beneficial to the taxpayer as a whole, but to state government in its efficiencies. One of the main things is we want to see state government efficient.

Rep. Roscoe Streyle: I can see a little larger transaction. They are going to have much bigger expense there. I can see that being an issue, but the smaller ones, it probably isn't going to be that much.

Chairman Bette Grande: They may not charge. It may be trivial for them to start doing a charge on that.

Vice Chairman Randy Boehning: With some of the fees, it gets really complicated. There are convenience fees, surcharges, and with most credit cards they are not allowed to charge a fee. If you go and buy something at the gas station or a convenience store, they can't charge you a fee up and above what the price is. The only way they can do that basically is if they offer discount for cash. If somebody wants to come to the Mill and Elevator and purchase \$100,000 worth of flour and if they use their credit card, they are going to use their credit card, they are going to pay the full \$100,000. Otherwise, they will have to give them a discount in order to avoid paying that fee. It gets really complicated, because the rules all have been changed since this last year now.

Chairman Bette Grande: Can we take this bill up?

Vice Chairman Randy Boehning made the motion to adopt amendments 11.8096.01001.

Rep. Mark Sanford seconded the motion.

A voice vote was taken. Motion carried.

Rep. Lisa Meier made a motion for a Do Pass as amended on HB 1098.

Vice Chairman Randy Boehning seconded the motion.

DO PASS AS AMENDED, 12 YEAS, 1 NAY, 0 ABSENT. REP. BOEHNING WILL CARRY THIS BILL.

Date: 1-7-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1098

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Winrich

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice vote to accept amendment.
Motion carried.*

VR
1/14/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1098

Page 1, line 20, overstrike "in accordance with rules"

Page 1, line 21, overstrike "adopted by the office of management and budget,"

Page 1, line 23, overstrike "The office of"

Page 2, line 1, overstrike "management and budget"

Page 2, line 1, remove "may" and overstrike "adopt"

Page 2, line 1, remove "policies" and overstrike "establishing the terms under"

Page 2, line 2, overstrike "which executive agencies may charge a service fee under this subsection." and insert immediately thereafter "The Bank of North Dakota shall adopt rules establishing the terms under which executive agencies may charge a service fee under this subsection to be in compliance with a credit card company's rules and shall approve the amount that may be charged by an executive agency."

Renumber accordingly

Date: 1-13-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1098

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8096.01001

Action Taken Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep Boehning Seconded By Rep Sanford

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voiced vote
to adopt
amendment
motion carried*

Date: 1-13-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1098

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8096.01001

Action Taken Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep Meier Seconded By Rep. Boehning

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

Total (Yes) 12 No 1

Absent 0

Floor Assignment Rep. Boehning

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

REPORT OF STANDING COMMITTEE

HB 1098: Government and Veterans Affairs Committee (Rep. Grande, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1098 was placed on the Sixth order on the calendar.

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Renumber accordingly

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1098

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1098
March 10, 2011
15236

Conference Committee

Committee Clerk Signature

Kate Oliver

Explanation or reason for introduction of bill/resolution:

Relating to the office of management and budget adopting and amending policies.

Minutes:

Testimony Attached

Pam Sharp: Director of Office of Management and Budget, see attached testimony #1.

Senator Cook: The fee you are charging is to the person paying?

Pam Sharp: That is correct because the agency get charged a fee.

Senator Cook: When that policy change was made it was not accepted by everyone. Has OMB put in place the rules?

Pam Sharp: No rules or policy in place yet.

Senator Cook: I assume other states are doing it.

Vice Chairman Sorvaag: The intent is to only charge what you are being charged.

Pam Sharp: Yes. That would be the intent

Vice Chairman Sorvaag: But you don't know the rate.

Pam Sharp: No I do not

Chairman Dever: But the mileage is the same as GSA, correct?

Pam Sharp: Yes. OMB has a set of fiscal policies.

Joe Herslip: Senior Vice President of Operations at the Bank of North Dakota. The bank does not charge to the agencies themselves.

There was no one else present to speak in favor, opposition or in a neutral position. Chairman Dever then closed the public hearing on HB 1098

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1098
March 10, 2011
15242

Conference Committee

Committee Clerk Signature *Kate Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to the office of management and budget adopting and amending policies.

Minutes:

No testimony attached

A motion for a do pass was made by Senator Cook with a second by Senator Marcellais, there was no further discussion, roll was taken, the motion passed 7-0 and Senator Cook carried the bill to the floor

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

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1098

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Cook Seconded By Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Sen Cook

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

REPORT OF STANDING COMMITTEE

HB 1098, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1098 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1098



Public Service Commission
State of North Dakota

Attachment 1

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk

Executive Secretary
Darrell Nitschke

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7 January 2011

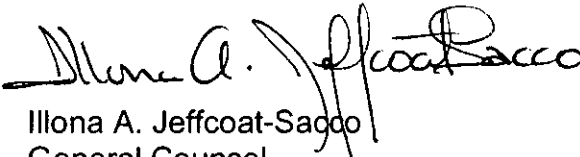
Honorable Bette Grande, Chairman
Government and Veterans Affairs Committee
North Dakota House of Representatives
600 East Boulevard Avenue
Bismarck ND 58505

Re: House Bill 1098

Dear Representative Grande:

Thank you for allowing me an opportunity to discuss the captioned bill with the Commission. The Commission is neutral on this bill and appreciates the committee providing us time to review and discuss it.

Best regards,


Illona A. Jeffcoat-Sacco
General Counsel

c: Rep. Randy Boehning - Vice Chairman
Rep. Bill Amerman
Rep. Glen Froseth
Rep. Ron Guggisburg
Rep. Lisa Meier
Rep. Gary Paur
Rep. Karen Rohr
Rep. Mark Sanford
Rep. Vicky Steiner
Rep. Lonny Winrich

Testimony on HB1098
Senate Government and Veteran's Affairs Committee
March 10, 2011
Office of Management and Budget

Two sections of law passed last legislative session that required OMB to go through the administrative rules process.

HB 1098 as originally submitted by OMB, simply replaced "rules" with "policy" allowing OMB to establish policies rather than go through the administrative rule process.

Section 1 relates to agencies accepting credit cards as payment. #3 of Section 1 is language that was added last session. It allows an agency to charge a fee to offset the fee charged by the credit card company, and required that OMB adopt rules as to how much an agency could charge.

If you look at #2, you will see that The Bank of North Dakota is the credit card administrator for credit card transactions. We had several meetings with the Bank to figure out how this should work, and came to the conclusion that policies were more appropriate than going through the rule making process.

OMB asked IN HB 1098 that we be allowed to establish policies instead of adopting rules. The House Government and Vets Affairs committee amended the bill to require that the Bank of North Dakota Adopt rules regarding service fees. That is in the engrossed bill as you see it.

I still believe it is more appropriate to establish policies rather than adopting rules regarding the services fees charged by an agency.

Section 2 of the bill would have required OMB to go through the rule making process every time the United States GSA rates changed for mileage reimbursement. We suggested that we change the rates in policy instead of rules and that was approved by the House GVA Committee.

I ask for your support of this bill, and ask that you consider allowing policies to be set rather than adopting rules for agencies charging a service fee to accept a credit card.