

TESTIMONY OF

Sherry Neas, Director, Central Services Division

Good morning, Chairman Louser and members of the committee. My name is Sherry Neas, Central Services Division Director, and Chief Procurement Officer, with the Office of Management and Budget (OMB). OMB opposes HB 1429, as introduced.

HB 1429 would create a new section in NDCC Chapter 54-06 that prohibits a government entity from contracting with a company unless verified that the company does not boycott energy and production agriculture during the term of the contract. Additionally, the bill would prohibit a government entity from contracting with a company that is a financial institution not eligible to receive investments of state funds by the state investment board.

The definition of "Boycott" in lines 9-22 of the bill is broader than the language required to be in the contract, as it also includes consideration of firearms and ammunition.

The bill impacts all government entities and all contracts over \$100,000 with companies having 10 or more employees.

The bill would allow exceptions if the governmental entity determines that the goods or services are not otherwise available on commercially reasonable terms or if the requirement is inconsistent with the government entity's constitutional or statutory duties.

HB 1429 would significantly complicate procurement and state contracting. This broad language would impact all state agencies, higher education institutions and thousands of government contracts, annually. Currently, procurement and contracts have nothing to do with a vendor's position on firearms or environmental and social governance issues.

Procurement rules require all contractual terms and conditions to be disclosed in the bid document, so vendors can review the contract before they submit a bid or proposal. This provision would impact competition on government contracts and the ease of negotiating contracts with successful vendors. Many individuals and businesses would be hesitant to sign this vague provision, and others would refuse to agree to this provision altogether. Any consequences to be applied to vendors that refuse to agree to this provision must be carefully crafted by legal counsel.

The fiscal impact of this bill cannot be calculated, but additional legal costs and time delays can be expected for contract negotiations.

OMB opposes HB 1429. While this bill is well-intended, it would complicate procurement and contracting. Procurement should be focused on getting the best value for state government and selecting the most qualified contractors. Thank you, Mr. Chairman and committee members. This concludes my testimony, and I would be happy to answer any questions.