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**Testimony in Support of House Bill 1546**  
Presented to the House Finance and Taxation Committee  
69<sup>th</sup> Session of the North Dakota Legislative Assembly

Chairman Headland, members of the House Finance and Taxation Committee, for the record my name is Sean Johnson from District 8, and I am here today in my capacity as a private citizen to testify in support of House Bill 1546. This bill seeks to correct an inefficiency I recently became aware of in the state's tax code which results in unnecessary costs to North Dakota taxpayers without any added benefit.

**Issue**

Under current law, state agencies are exempt from paying sales tax when purchasing tangible personal property—such as construction materials—that become part of a public improvement. However, for practical reasons, agencies do not purchase these materials directly. Instead, contractors performing the work include these costs as part of their bid, procure them for construction and, because they are not tax-exempt, pay the 5% state sales tax.

This sales tax is remitted to the state by the vendor, and the contractor then invoices the state for reimbursement—including the sales tax. As a result, the state effectively **pays sales tax to itself**, increasing project costs without providing any additional benefit.

**Impact on Taxpayers**

For context, Senate Bill 2286 is a study bill to look at the funding necessary to provide education and internships statewide for all programs at an expanded University of North Dakota health professions collaborative facility. It also proposes a **\$95 million** appropriation for an addition to UND's medical school for such a collaborative facility. Based on industry estimates provided to me by architects, **40%** of this project's cost, or **\$38 million**, reasonably could be attributable to materials. Under the current tax system, contractors would pay approximately **\$1.9 million in state sales tax**, which would then be **reimbursed by the state**, representing an unnecessary cost to the project.

This scenario could be repeated across numerous state-funded projects. I do not wish to speculate on what this total could be, but I would not be surprised if more in depth research indicated totals of **tens of millions of dollars** in such spending over time (perhaps more)—funds that could be better used for initiatives such as **property tax relief** or additional **public infrastructure investments**.

**The Solution Proposed by HB 1546**

The most effective solution as I see it is to extend to **contractors working on public projects** the same **sales tax exemption** already afforded to state agencies when they purchase materials directly. This change would eliminate an inefficient and costly reimbursement cycle, ensuring that taxpayer dollars are spent efficiently.

**Proposed Mandatory Study Bill Language**

I have had conversations alongside Representative Berg with the Tax Commissioner's Office on this bill to understand their perspectives. We recognize the Tax Commissioner's Office concerns regarding the

**administrative feasibility** of implementing this exemption under current processes and procedures. There is also the possibility of some missed federal reimbursements for state sales taxes on certain projects with a federal cost share, although it is likely safe to say the taxpayers of our state would still come out well ahead if HB 1546 is passed. If the Legislature determines that these challenges require further examination before full implementation, I encourage consideration of an **alternative approach** by amending HB 1546 to initiate a **mandatory study** this issue.

I would suggest the following language for consideration, if required:

*"The Legislative Management shall study the feasibility and desirability of exempting contractors executing projects on behalf of the state from paying state sales tax on tangible personal property that becomes part of a public improvement. The study must evaluate potential administrative challenges, fiscal impacts, and possible process and programmatic changes necessary for implementation while minimizing burdens on the Tax Commissioner's Office. The study must also include input from relevant stakeholders, including state agencies, contractors, engineers and architects, and tax administration officials. The Legislative Management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the Seventieth Legislative Assembly."*

This study would allow the Legislature to fully explore the implications of this exemption, ensuring that any future implementation is both **fiscally responsible** and **administratively feasible**.

### **Conclusion**

House Bill 1546 is a **common-sense proposal** that eliminates unnecessary costs to taxpayers without affecting tax revenue. If full implementation proves too challenging at this time, a study would be the next best step to ensure North Dakota moves toward a more efficient tax structure.

I urge the committee to **support HB 1546** in its current form or with enabling amendments to address any administrative concerns; or to consider adopting a **mandatory study amendment** to lay the groundwork for a future solution. Thank you for your time, and I welcome any questions.

  
Sean M. Johnson