

Testimony in Opposition to House Bill 1309
March 9, 2021
Senate Finance and Taxation Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Madame Chair and members of the Senate Finance and Taxation Committee. For the record, my name is Bill Wocken and I am testifying in opposition to House Bill 1309 on behalf of the North Dakota League of Cities.

House Bill 1309 seeks to exempt a contractor or subcontractor from payment of the use tax if they are not involved in a contract to purchase the items they are installing. The bill also eliminates an exemption for medical equipment installations.

At present, North Dakota law requires a contractor or a subcontractor to pay either sales tax at the time of purchase of tangible personal property or use tax at the time of installation of tangible personal property. This is necessary to ensure that the sales tax or the use tax is paid on all tangible personal property because not all such property installed in North Dakota is sold in North Dakota to non-exempt entities. State law does not require a sales tax permit until sales reach \$100,000 in any year. House Bill 1309 removes the requirement that a contractor or subcontractor pays the sales tax or the use tax when that contractor or subcontractor is performing the work to install tangible personal property but was not a party to a contract to purchase this property.

The practical effect of the exemption sought by House Bill 1309 then, would appear to be avoidance of payment of sales tax for materials purchased outside North Dakota or materials purchased within the state for which sales tax was not collected. The present safety net for collection of these taxes would no longer exist. North Dakota material suppliers who collect sales tax would appear to be at a potential disadvantage to out-of-state rivals.

The North Dakota League of Cities is concerned for the effect this change would have on sales and use tax collections utilized by the state and local governments to provide services. There is no fiscal note on the bill, perhaps the fiscal impacts of the bill could not be calculated, but we believe they could be substantial. We are concerned now, as we were when this concept was considered last session, about unintended consequences on revenue collections.

We are not sure answers are available for all the questions this bill raises so we must respectfully request a DO NOT PASS recommendation for House Bill 1309.