

2025 HOUSE FINANCE AND TAXATION

HB 1546

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1546
1/29/2025

A bill relating to a sales and use tax exemption for purchases made by a contractor, subcontractor, or builder on behalf of the state of North Dakota and relating to a use tax on contractors.

11:23 a.m. Chairman Headland opened the hearing.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman

Members Absent: None

Discussion Topics:

- Construction of state-owned projects
- Tax on state projects
- Tax exemption for contractors
- Proposed study

11:23 a.m. Representative Berg introduced the bill #32526.

11:25 a.m. Sean Johnson, District 8 private citizen, testified in support #32490.

11:35 a.m. Russ Hanson, ND Associated General Contractors, testified in support.

11:39 a.m. Shannon Fleischer, Associate Director with the ND Tax Department, provided information to the committee.

11:43 a.m. Chairman Headland closed the hearing.

Mary Brucker, Committee Clerk (Janae Pinks)

January 29th, 2025

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Testimony in Support of House Bill 1546
Presented to the House Finance and Taxation Committee
69th 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

January 29th, 2025
Representative Mike Berg
District 8

Testimony in Support of House Bill 1546
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Mr. Chairman and members of the House Finance and Tax Committee. For the record I am Mike Berg of District 8 serving rural Burleigh County and Emmons County.

HB 1546 is before you today because a constituent reached out to me with some ideas about improving the efficiency of the construction of state-owned projects that are subject to state sales tax. This bill does not affect sales or use taxes imposed by a county or city.

Under current tax law, projects that are constructed for State agencies are subject to State sales tax. As a result of this, a contractor building a project for the State will pay state sales tax on materials. The contractor will then submit pay requests to the State agency as the work is constructed. The State will pay the pay requests which include the State sales tax. This results in inefficiencies in the construction process.

Thank you for your consideration,

Rep. Mike Berg

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1546
2/4/2025

Relating to use tax on contractors; and to provide an effective date.

4:12 p.m. Chairman Headland opened the meeting.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman

Members Absent: Representative Ista

Discussion Topics:

- Committee action

4:13 p.m. Representative Dockter moved a Do Not Pass.

4:13 p.m. Representative Dressler seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	N
Representative Mike Motschenbacher	Y
Representative Dennis Nehring	Y
Representative Jeremy Olson	Y
Representative Todd Porter	Y
Representative Vicky Steiner	N
Representative Nathan Toman	N
Representative Austin Foss	Y
Representative Zachary Ista	AB

4:17 p.m. Motion passed 10-3-1.

4:17 p.m. Representative Dockter will carry the bill.

4:18 p.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

REPORT OF STANDING COMMITTEE
HB 1546 ([25.1272.01000](#))

Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1546 was placed on the Eleventh order on the calendar.