



Testimony—

Political Subdivision Taxation Interim Committee

Fiscal Impact of Sales Tax Exemption on Construction Contracts with Exempt Entities

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Current use tax law, North Dakota Century Code § 57-40.2-03.3, makes contractors liable for use tax on all untaxed tangible personal property used in performance of a construction contract regardless of who owns the tangible personal property prior to installation or who is the ultimate owner of the real property improvement. The bill draft prepared for the committee, if approved, will exempt from sales and use tax tangible personal property used in a construction project if the project is ultimately owned by an “exempt entity” as defined in the bill draft.

The Committee requested information regarding the fiscal impact of the proposed exemption. Most of the information on the following page was gathered in early 2015 for the fiscal note prepared for House Bill 1401, which was introduced as an exemption but later amended into a study. However, the value of federal government contracts was reduced based on more complete information located.

Category of Contracts	Million \$
Highway contracts estimate per Department of Transportation.....	\$800
School projects estimate per Department of Public Instruction.....	190
Higher education projects estimate from Board of Higher Education website.....	68
Other state agency facility projects.....	40
Hospital, nursing homes, intermediate care, basic care, assisted living, emergency service providers - estimated construction.....	50
Federal contracts in North Dakota per Fedspending.org.....	126
County, city and township road, street, water, sewer, light estimate.....	200
Total estimated contract cost per year	\$1,474
Material cost estimated at 30 percent of total contract	X 30%
Taxable material cost.....	442.2
Sales and use tax rate	X 5%
State sales or use tax per year (5 percent).....	21.11
Two years in biennium	X 2
Estimated fiscal impact of exemption for biennium (in millions).....	\$44.22