

2011 HOUSE FINANCE AND TAXATION

HB 1404

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1404
January 26, 2011
#13448

Conference Committee

Committee Clerk Signature *Mary Brueker*

Explanation or reason for introduction of bill/resolution:

A Bill relating to the rate of sales and use tax for modular homes; and to provide an effective date.

Minutes:

See attached testimony #1

Representative Koppelman: Sponsor. Support. HB 1404 is to equalize the taxing of modular housing along with the way mobile homes are taxed. When we tax a new product, a new housing product in North Dakota it's done in a couple of ways; a stick built house, a traditional home, that is built on site is indirectly taxed because you pay tax on the materials that you buy to built it so shingles, studs, sheetrock, etc. you pay tax on. Obviously you don't pay sales tax on the labor that's involved in building your house. I don't know what that quantifies to, I suppose it varies by project but theoretically you're being taxed on a portion of the cost of that home. Mobile homes were looked at several years ago by the legislature as a little bit of a different animal because they are often times somewhere else and moved in. We have an annual tax on mobile homes but this bill doesn't deal with that. But when the mobile homes are purchased there is a sales tax. It's not the same sales tax as you pay for other products, it is reduced I believe it's 3% instead of 5%. The reason for that is the same recognition of what happens in a stick built house, there is labor involved and there is material involved. The taxing theory we have in North Dakota is we're going to tax the material and not the labor. The tax assessed on a mobile home is reduced to 3%. That is not the case of modular housing and I think the reason is because it wasn't prevalent and we didn't think about it when the mobile home change was made back or the modular housing lobby wasn't here and the mobile home lobby was, I'm not sure. The bottom line is that it should be equalized and that's the intent of the bill. Modular housing is something that is growing in North Dakota particularly in the oil patch where housing is an issue and so it is becoming a greater and greater issue here. We don't want to pick winners and losers in our business community and we don't want one to suffer a tax disadvantage over another or one to have an advantage or another so we want fair tax treatment and that's what this bill tries to do.

Kendall Jones, North American Building Solutions: Please refer to attached testimony #1.

Representative Glen Froseth: Are modular homes taxed at the same as a mobile home?

Kendall Jones: Mobile homes are taxed at a rate of 3%.

Representative Glen Froseth: I mean manufactured homes.

Kendall Jones: A mobile home is considered to be a manufactured home. A modular home is a home that is constructed the same way as a stick built home but is built in a controlled environment and moved to a site upon completion.

Representative Glen Froseth: Most of the modular homes today are double units. They are brought in as two units and put together and set on the foundation. The manufactured homes are built quite similar.

Kendall Jones: They may or may not. It depends on the size of the structure. Our units are very small. Our units are all one size. We can configure them together to make apartment buildings or whatever but we can also sell them as an individual unit which you can actually haul in on a trailer behind a pickup. So they may come in pieces or they may not.

Representative Scot Kelsh: Can you tell me what the typical labor is for constructing a 2,000-3,000 square foot modular home versus the number of hours. How quickly do they go together, a single family versus a mobile home?

Kendall Jones: My expertise is not in the \$2,000-3,000 homes, mine is more in the individual modular pods that are used for high density housing. I would say you are looking at anywhere from 60% labor which you are being taxed on which should not be.

Representative Scot Kelsh: Do the modular homes come in tact with shingles, siding, roofing, etc, or does that vary?

Kendall Jones: It varies. Our units can be shipped out with a rubberized roof. We are working on a unit in Williston right now for a trucking firm and that one will have siding and roofing installed on site but those are strictly aesthetics.

Representative Glen Froseth: Do you pay sales tax on the materials that you use to build that modular home and then you pass that cost onto the cost of the home?

Kendall Jones: On that particular one we do use the tax exempt status for resale because they will be taxed at the end. The buyer of the unit is then not only taxed on the materials but also on the labor that went into that structure.

Representative Dave Weiler: Do you have a fiscal note on this?

Blaine Braunberger, State Tax Department: Yes there is.

Chairman Wesley R. Belter: The general fund fiscal note is \$368,000 and other funds are \$32,000. Would it not be possible to just tax the materials just like any other home is done?

Blaine Braunberger: As a point of clarification the taxation of the materials really comes down to whether the home is attached to real property or not. If you have a ready to move home which you might see a lumber yard build a home that is set on blocks and once that home is completed we consider that an article made to order because it is a tangible item. In the previous testimony of Mr. Jones that is the situation where we would say the taxes due on the material and the cost and the labor. However, if that lumber yard were to have a crew to take that home and actually furnish the home and attach it to real property under the use tax statute they are only liable for tax on the cost of the materials. It is a similar situation to what you are referring to. Where it would be different would be if you yourself would buy that home off the blocks with a selling price of say \$100,000 you would have to pay 5% on the \$100,000. If you were then responsible for setting and attaching yourself to save some labor costs then you would be taxed on the full selling price as an article made to order, similar to buying a podium. One thing that Representative Koppelman pointed out to us is that even though the fiscal does talk about a loss of general fund revenues the modular homes from our experience the vast majority are attached to real property and so here would be at the local level future property tax revenue generations for those localities that do collect the property tax. So there is a write-off on these types of homes.

Chairman Wesley R. Belter: Is there a difference between a home that is put together on blocks at a lumber yard, is that not a modular home?

Blaine Braunberger: No we would not regard that as a modular home because it is going to be a full unit so we refer to that as a ready to move structure. A modular home is viewed as a home that is built in component parts and then taken to a location and set on a foundation and made one unit. There was a question about a manufactured home. Manufactured homes we tax as a mobile home because they have a different code requirement than a mobile home but when they are built are built on a metal frame or chassis and have wheels underneath them and that's why they are taxed as a mobile home. A modular home has to be put on some kind of an i-beam carrier that you place the home on to move it as well as with the ready to move homes.

Representative Dave Weiler: A few minutes ago you made the comment that there would be a property tax collected for those modular homes that are put into place. I'm having a little trouble figuring how there is a trade-off there. Modular homes are going to go into place regardless of whether this tax is lowered or not.

Blaine Braunberger: I would think that if the rate was going to be reduced that would increase the purchases of modular homes especially in the areas that need it. Once they are placed on the foundation then those localities would be able to recover the property tax even though the state's general fund would be losing on the reduced rate the locals would benefit.

Representative Dave Weiler: You're thinking this is going to increase sales. What would the savings be on a modular home for the individual who purchased it due to this tax being lowered?

Kendall Jones: An example would be the present structure we are working on in Williston. That particular product is \$574,000 for the modular portion of it. It is basically an 8-plex apartment building. Each of those 8-plex units is four bedrooms that will house a total of 32 employees. That particular individual will be assessed an additional \$12,000 with the difference between manufactured or mobile homes and modular. Because it is on a foundation he is going to be able to be taxed later as real estate rather than just a mobile home parked on a lot.

Representative Glen Froseth: If a manufactured home and a modular home are both moved on the city lots and set side by side or on foundations, they are both taxed equally as real estate property tax? The manufactured home does not have a special tax permit that would give them a lesser tax burden after their one is set on the foundation?

Blaine Braunberger: I am not familiar on that side of it, on the property taxes.

Representative Glen Froseth: If you bring in a double wide manufactured home and a double wide modular home and set them side by side in a housing development on a foundation they both have to be taxed as real estate?

Blaine Braunberger: I would tend to agree with you because they are attached to real property and that would be a determination.

Vice Chairman Craig Headland: This bill isn't really going to change that is it? They are both going to have real estate taxes too. Currently, you are taxing a modular home the same way you are taxing a home that is constructed at the lumber yard, isn't that correct?

Blaine Braunberger: That is correct. One thing I should mention from prior testimony of Mr. Jones, as you note in the fiscal note we looked at current transactions that we felt were relative to modular homes. We did not take into account commercial type structures that are deemed to be modular in nature. So using his example of the modular apartment that would not be figured in here because it was very difficult to determine to what extent those types of items would be used in the state. They do not fall into that fiscal note.

Chairman Wesley R. Belter: Representative Headland, would you restate the question you just asked?

Vice Chairman Craig Headland: Currently, the modular home you see driving down the highway in two or three pieces is taxed the same way that the house that is built at the lumber yard that is one piece and moved out, correct?

Blaine Braunberger: That would be a correct statement provided that it is based on a tangible comparison, meaning that a stick built is a unit and a modular is a unit but once somebody attaches that whether it's a dealer. If you just bought a modular home you would pay tax on the article made to order price, labor and materials. But if he were contracted with you to furnish that home and to attach it to real property then the tax liability is only on the cost of the materials which still could apply in the lumber yard example if that lumber yard was asked to attach that home to real property.

Vice Chairman Craig Headland: Then would that not be the same case in a modular home?

Blaine Braunberger: Yes.

Chairman Wesley R. Belter: So it's just a case of how you do the deal then?

Blaine Braunberger: That is correct. It is basically semantics whether a person is buying an article made to order and they're attaching it to real property or they are having that dealer furnish and install that unit then there is a different tax consequence under the use tax statute that a person is liable for tax on the cost of the materials that are installed.

Chairman Wesley R. Belter: If I'm a customer for a modular home or a home that is built at a local lumber yard, depending upon how I buy that product if I do the paperwork in the correct way I would not have to pay tax on the labor in either case?

Blaine Braunberger: That is correct.

Kendall Jones: I think the point being missed here is manufacturers manufacture. We're in the age of specialization and so we are in the business of manufacturing product. We sell it to the end user, they arrange for the contractor as a rule to install that. Consequently, they are assessed at the higher rate and then avoid the labor on the installation. The lumber yard as well does not generally do their own installation. The individual buying it hires somebody to put in their foundation and footings and then hire somebody else to move it. If you're talking a one piece transaction where one individual does it all that is true but we are not. What we're looking for is that when the modular component is sold as a modular component that is just be taxed fairly at the same rate as mobile homes. When you asked about whether if a mobile home or a modular home were put on a foundation next to each other would they be taxed as real estate and they would providing the communities will let them. Most communities will not let you put a mobile on a foundation within city limits or within their jurisdiction. There are many areas, like Killdeer, who will not let you bring mobile homes within their city. Basically what we are trying to do is equalize the tax situation so the playing field is level.

Vice Chairman Craig Headland: Isn't it true that once a modular home or a home constructed at a lumber yard is set on a foundation is then permanent?

Kendall Jones: That is correct but the individual buying that is going to pay the 5% rate on that unless the lumber yard is giving him a complete price on foundation and they are doing the transportation and everything else.

Chairman Wesley R. Belter: No further testimony. Closed hearing on HB 1404.

2011 HOUSE STANDING COMMITTEE MINUTES

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Fort Totten Room, State Capitol

HB 1404
January 26, 2011
#13473

Conference Committee

Committee Clerk Signature *Mary Bruden*

Explanation or reason for introduction of bill/resolution:

A Bill relating to the rate of sales and use tax for modular homes; and to provide an effective date.

Minutes:

No attachments.

Chairman Wesley R. Belter: This was Representative Koppelman's modular home tax bill which put the modular homes on a 3% tax similar to the mobile homes.

Representative Bette Grande: I didn't quite understand if a modular home was really a mobile home or a stick home and in which category it should be taxed in. We could go back and forth but the fact is that it eventually becomes a fixture so it should be handled the same way as a stick home. Does that mean that is how it is currently being done?

Chairman Wesley R. Belter: Yes.

Representative Dwight Wrangham: I was a little bit confused on this too. I'm not sure what is to be done but I think something needs to be done. I don't think the difference of whether the labor of producing the home is taxable depends on who hauls it to the location where it is put on the foundation. There has got to be a better way to do this. I don't have it but I hate to see this killed because we haven't found the answer. There is a problem.

Representative Mark S. Owens: We have a former legislator from this body who bought one of these. It was constructed in Canada and then shipped to Grand Forks and set on a foundation. I don't know if they paid a tax. Obviously they paid for the transportation. At that point once it was constructed it's like any other home, property tax is the same. I don't know if we normally get use tax from the construction of a home or sales tax from the materials. I don't know if he had to pay any of that or not. I'd be interested enough to call him and find out.

Chairman Wesley R. Belter: I'm sure he would have had to pay tax on the materials whether he paid on the labor or not probably depends on the way he had it contracted. The way I understood it the argument was that you're paying tax on the materials as well as the labor with the modular home that you don't pay if you have one built on site. However, I

also heard that if you paid your contract you could get out of the labor costs if that's the way you made your deal. It's kind of a sticky issue.

Vice Chairman Craig Headland: What the modular home builder is doing is paying his employees and when they move it to the site he is being taxed on the labor and he builds that into his price. So what he could do to make himself equivalent to the house that is in the lumber yard and constructed and moved out they are reducing that and the labor is being passed on to the person who moves it. This is a sticky situation.

Representative Glen Froseth: I think the difference is between a modular or a stick built home a modular home is built in sections and it's meant to be moved to the site where if a home is built in a lumber yard it is a complete house but then you have to have it moved then so I don't get the difference either. I don't know why the labor isn't charged on that house and it is on these. The difference between a manufactured home that is paying 3% tax now is that a mobile home because they can come in two units also. It's not quite the same kind of construction. I'd say the quality of a manufactured home is less than a modular home because the modular home should be the same as a stick built house on your site.

Representative Roscoe Streyle: As I understood it with the lumber yard if they are doing the whole project to include cement, etc. then there would be tax but if it's built at the lumber yard it would be no different than what the gentleman testified as far as what I got out of it. There is no company that I know of that does cement work, plumbing, electrical, or everything so I think they are getting over taxed on this. When you buy these things it's a one price deal. They don't say labor was \$60,000, materials were \$40,000 and our net profit was \$20,000. It is \$120,000 take it or leave it. They deliver it and you provide the foundation, the electrical, the plumbing, etc. In many cases they don't have the expertise to do that. They just deliver it and set it up and you take care of the rest.

Representative Bette Grande: Where did we come up with the manufactured homes were only 3% and why then are the mobile homes and possible the modular homes 5%?

Chairman Wesley R. Belter: It is 3%.

Representative Bette Grande: It says modular homes are 5%.

Chairman Wesley R. Belter: You have to read on. It goes to the next page. It says on page 3 line 15 they impose a tax of 3% upon the gross receipt of a retailer from all sales of retail mobile homes used for residential and business purposes.

Representative Bette Grande: Where did you see manufactured homes at 3%?

Representative Glen Froseth: A manufactured home is the same as a mobile home.

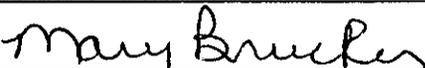
Chairman Wesley R. Belter: Let's call Blaine Braunberger from the Tax Department to answer a few questions. We will put this aside for now.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1404
January 26, 2011
#13477

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

A Bill relating to the rate of sales and use tax for modular homes; and to provide an effective date.

Minutes:

No attachments.

Vice Chairman Craig Headland: This became clear to me that I didn't understand how it worked either way. We need you to explain how a modular home that is manufactured currently today versus how a stick frame home at a lumber yard works that is moved to a property today. Then we can determine if there is an inequity there.

Blaine Braunberger, ND Tax Department: Let's try to simplify it by keeping it on the same basis and that would be in the case of both the modular home and the stick built ready to move home in the lumber yard. We'll say both those units end up being attached by a contractor to real property to real property or to a foundation. In both of those cases if they are attached by a contractor the contractor is liable for the tax at 5% on the cost of the materials. Where that can get a little muddled is if in the case of the modular home you have a dealer that is not the manufacturer such as in the testimony we heard this morning where the dealer was actually manufacturing them so when he installs them he is going to owe a tax on the cost. If he was not the manufacturer and he bought them from a manufacturer his cost becomes the full price that he purchases it. This would be the labor and materials in that case. It does change; the person that manufactures or stick builds that house and then installs it themselves they would have the tax advantage of only having to pay tax on the cost of the materials. Where if somebody had to purchase the item their cost is the purchase price they have to pay to that manufacturer which would be the full selling price of labor plus marked up materials and anything else. Does that make sense?

Vice Chairman Craig Headland: I think I understand it but I don't know. In a case where the manufacturer is also the contractor similar to where a stick frame is built at a lumber yard, they are responsible for tax on just the cost of materials. In a case where it's a dealer and the dealer is the manufacturer they are getting taxed on the labor as well.

Blaine Braunberger: If the dealer is the manufacturer he is treated on the same basis; he is only liable on tax on the cost if he's actually installing it. But if the dealer is not

manufacturer and he goes out and buys it from the manufacturer then his cost is no longer just the cost of materials. His purchase price is now his cost.

Representative Dwight Wrangham: Would you go over what you did this morning about the difference as to whether the purchaser moved the house from the lumber yard or whether the lumber yard delivered the house to the foundation?

Blaine Braunberger: In the case of a ready to move home that is built to order on blocks, if a person goes to the lumber yard and says I want to buy that house it is whatever the asking price is on that house, \$100,000. The tax would be charged by the lumber yard at 5% plus any applicable local tax on the full \$100,000. If the homeowner is going to arrange for his own installation and deal with it, if he goes to the lumber yard and asks for a complete package of buying the home and having it attached to the foundation then they are offering as a contractor and they are only responsible for tax on the cost of those materials.

Chairman Wesley R. Belter: We have to not compare the modular home with the trailer house and whether we have an inequity of those two the question I have is do we have an inequity between the stick home that is built at the lumber yard versus a home that is built on site versus the modular home. The home built on site pays 5% on all its materials and nothing on labor. The home that is built at the lumber yard if you work your deal right you can get that home put on site with only paying material sales tax. And if you did your deal right with the modular home shouldn't you also get it on site with only paying material sales tax?

Blaine Braunberger: It depends on the modular home how the party structure is set up. If in the case of Mr. Jones this morning he was the manufacturer and he did install the home so there he would only be liable for the tax on the cost of materials. But in his case now the bill was to make that at the 3% rate that he would have to pay the cost of materials versus the 5% rate that he is currently paying on the cost of materials.

Chairman Wesley R. Belter: So then that would make him more competitive against...he's trying to compete with the trailer house. I don't know if it's fair to compare a trailer house with a modular home because I would think a modular home on a fixed foundation is a different situation.

Blaine Braunberger: That would be the way I look at it also.

Representative Dave Weiler: I think you are correct. When I look at mobile homes, modular homes, and stick built homes the modular homes are competing with the stick built homes. They are up there in price, they aren't as expensive but a mobile home might be at the most, at least in Bismarck \$50,000 to \$60,000. A lot of them that are used they depreciate in value and are very difficult to get financing for. You can find them as low as \$6000-8000. New modular homes that are attached to a basement on site they are upwards of \$130,000-140,000, maybe even more. So they are competing with a stick built home, they aren't competing with a mobile home. The home that is built at a lumber yard, I don't know what this is about. Isn't that a modular home? I didn't know lumber yards built homes.

Blaine Braunberger: I don't believe every lumber yard is going to do it, it just depends if they have a crew and they have a market for it. Through our audit experiences and contacts with our department there are a number of lumber yards across the state that does it.

Representative Wayne Trottier: A loop hole in this is if I go into a lumber yard and want to buy the house he built if he says its \$120,000 and that's what I pay, I pay the full 5%, correct? But he says who's going to do your concrete work and I say it's Joe Blow and he says Joe Blow is the guy we use I can subcontract with him and I can save you the 2%. Is that true? Because he is going to take it out there I can deduct \$2000 from your bill because I'm going to have to pay the moving and the basement. I avoid then the 2% do I not?

Blaine Braunberger: That is correct. If you lower the rate that would be a correct statement and it would be on the cost of materials. That's the point; it is not on the full selling price of that item.

Vice Chairman Craig Headland: Did you have access to his testimony or do you recall what he said? I'm just reading over it here and I think he is the reason why we are all confused here because he is the one that brings stick homes into the mix. I think why he thinks he is being taxed unfairly is because he is building off site, like a trailer house, and it's moved in. But that same case can be made for that lumber yard house that you referred to. I think the question is that we need to decide whether our policy says that his modular home when set on a site is permanent because it is going to be taxed the same as a stick home. Because it's manufactured off site like a trailer house what tax is it really deserving of?

Representative Shirley Meyer: Is the definition the way they are moved? A trailer house has wheels and the modular homes are on wheels, isn't that where the definition ends up being or not?

Blaine Braunberger: That is correct. The mobile home and the manufactured home by definition can make that 3% lower tax rate they have to be manufactured and have a full chase underneath them that has wheels. With the modular home they have to be placed on some kind of an I-beam or a trailer of some sort in order to transport them, there are no wheels that are attached to those units.

Representative Shirley Meyer: But that's the distinguishment?

Blaine Braunberger: Yes. There is a little bit of complication with the language. Myles Vosberg visited with me before I came down and he asked me to mention to you that with the streamline sales tax agreement there are some carve outs of various things that can be taxed at different rates than our general sales tax areas. Right now the way the agreement states you can tax watercraft, modular homes, manufactured homes, and mobile homes at different rates. Our concern is with the definition on page 3 starting with line 17 where it talks about the definition of a modular home and specifically on line 19 where it says residential or commercial purposes it is Myles' opinion that we may be viewed as being out

of compliance with the agreement if we have that commercial aspect in there. The residential modular home we feel is what is meant in the carve out as far as the different examples but when it comes down to the commercial, like the modular motel facility and things of that sort that are commercial in nature, we feel that there could be some issues there if that is left that way.

Representative Dave Weiler: Would it be as simple as leaving out the words "or commercial purposes" or "commercial" because I don't know how you would ever find a modular home that you could use for commercial purposes.

Representative Glen Froseth: On line 16 it says "residential or business purposes." Wouldn't that be practically the same?

Blaine Braunberger: I would tend to agree with you and "or businesses" could be a concern also.

Representative Dave Weiler: If we pass this the way it is and it potentially puts us out of compliance don't we get next session to come back and change it before they kick us out of the streamline sales tax? What you're saying is it may or may not put us out of compliance and if it does and we do pass it I think we would get next session to change it.

Blaine Braunberger: The two year stay in the process where you come before your legislature and make a change is only if the governing board makes a change in their policy that affects current state law that puts you out of compliance at that time then you have until next session. In this case this is current language in the agreement so based on a change that we would make in this session once we certify to the board in June 2011 and they look at this there is a probability they could state we are out of compliance and then we will have to go through a sanctioning process and then in 2013 we could still come back and reverse it but we'd still have an issue in the interim.

Representative Dave Weiler: Do we have any way of finding out rather soon. Maybe Myles could find out. If we pass this it will go to the Senate and maybe by that time they would find out this would put us out of compliance and the Senate takes that out or kills the bill or whatever.

Blaine Braunberger: If that are the wishes of the committee we sure can check into that if you want to move ahead. We could then present it on the Senate side. We didn't want to leave here without addressing this issue with this group.

Representative Dave Weiler: I believe the gentleman that was here today his commercial purposes is basically his reason for doing this in the first place.

Representative Glen Froseth: The way I see this is a modular home or a spec home built at a lumber yard is apples to apples. The manufactured home and the modular home are oranges to apples. So why should we have a different tax structure for a modular home or a spec home that is built at a lumber yard? They are both the same.

Blaine Braunberger: That is your decision. We are not for it or against it.

Representative Patrick Hatlestad: Basically I think what he is saying is he is being taxed for materials and labor and he wants to be taxed at a lower rate so dollar wise it probably balances out. Versus the individual who only pays the materials. Is that reasonable?

Blaine Braunberger: That is probably his concern however, I believe from testimony he said he installs or attaches those modulars to real property so then he would be on the cost. That's why I still think he is looking at the 3% rate to apply to him there too versus the 5% because he just wants to balance the playing ground between the mobile home.

Vice Chairman Craig Headland: I have to give the man credit, he wants a tax break. I'm going to have to move a **DO NOT PASS** on this bill.

Representative Glen Froseth: Seconded.

A roll call vote was taken: YES 8 NO 4 ABSENT 2

MOTION CARRIED—DO NOT PASS.

Representative Glen Froseth will carry HB 1404.

FISCAL NOTE

Requested by Legislative Council
01/19/2011

Bill/Resolution No.: HB 1404

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$368,000)	(\$32,000)		
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1404 reduces the sales and use tax rate on modular homes from 5% to 3%.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, HB 1404 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$400,000 for the 2011-13 biennium. This estimate is based on the current level of sales of modular homes and does not assume significant growth in the demand for or supply of modular commercial buildings like oilfield buildings, crew camps, modular motels, or modular diners.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/25/2011

Date: 1-26-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1404

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Headland Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer		✓
Glen Froseth	✓		Lonny B. Winrich	AB	
Bette Grande	✓		Steven L. Zaiser	AB	
Patrick Hatlestad		✓			
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler		✓			
Dwight Wrangham		✓			

Total (Yes) 8 No 4

Absent 2

Floor Assignment Rep. Froseth

If the vote is on an amendment, briefly indicate intent:

MOTION CARRIED.

REPORT OF STANDING COMMITTEE

HB 1404: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1404 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1404



“Innovative Building Solutions”

877-777-8699

138 W. Beaton Dr.

West Fargo, ND 58078

Testimony #1

Jan 25, 2011

Re: HB 1404

Presently there is a severe housing crisis in North Dakota in the western part of the state. We are being blessed with windfall revenues from the oil industry but with that also comes challenges.

The biggest challenges lay in infrastructure and housing. Housing is especially challenging due to work force available to construct them along with the wages necessary to make them competitive. Part of the solution is housing constructed elsewhere with a more abundant and reasonably priced work force. This is accomplished with Mobile Homes as well as Modular Homes and Structures. These structures meet the same construction standards but the only difference is that after being constructed elsewhere they are transported into the area.

The problem is that with the present tax code modular structures are treated differently than Mobile Homes and site built or stick homes.

We feel the necessity of the bill remedy some inequities that exist in the North Dakota tax code. Presently Mobile Homes are taxed with a sales tax rate of 3% while modular dwellings are charged the prevailing sales tax rate. We can understand the lower rate on mobile homes since labor is included in the price of the unit and labor is exempt. However the same is true of modular dwellings in that labor is again a portion of the sales price but the end user is charged sales tax on labor which is inherently unfair.

When a house is constructed sales tax is collected on the materials but not on the labor which is equitable with our taxation policies in the state. Saying this is inherently unfair that a modular home or structure is assessed sales tax on labor when Mobile Homes and other homes are not. Also modular structures traditionally are put on a foundation and assessed as real estate at a much higher tax basis than a mobile home that will generally pay an annual license fee of \$150 to \$250 while a modular structure is assessed as real estate at the prevailing rate.

With the housing situation that exists in Western North Dakota we need to make all housing as equitable, obtainable and accessible as possible and this is the way to do it.

We are not asking for special treatment but merely equal treatment in purchasing modular structures versus mobile or stick built structures as part of North Dakota's housing crisis.

Regards,

Kendall A. Jones

Territory Manager

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