

MINNESOTA • REVENUE

SALES AND USE TAX Guthrie Theater and City Parking Ramp

April 21, 2003

	Yes	No
Separate Official Fiscal Note Requested		
Fiscal Impact		
DOR Administrative Costs/Savings		

Department of Revenue
Analysis of S.F. 1469 (Pogemiller)

	<u>Revenue Gain or (Loss)</u>			
	<u>F.Y. 2004</u>	<u>F.Y. 2005</u>	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>
	(000's)			
Guthrie Theater	(\$1,115)	(\$1,215)	(\$505)	\$0
City Parking Facility	(\$120)	(\$590)	\$0	\$0
General Fund Total	(\$1,235)	(\$1,805)	(\$505)	\$0

Effective the day following final enactment.

EXPLANATION OF THE BILL

Current Law: Materials and supplies acquired by a contractor for the improvement of real property are generally subject to the sales and use tax, regardless of whether the contract is with a for-profit, nonprofit, or government entity.

Purchases by nonprofit organizations defined by Section 501(c)(3) of the Internal Revenue Code are generally exempt from sales and use tax. However, in the case of construction contracts, it is the contractor who normally purchases materials and supplies for a project, and sales to contractors are taxable. Under Minnesota Rule 8130.1200, Subpart 3, an exempt entity may appoint the contractor as its purchasing agent. The rule requires the written contract to set forth that: (1) such appointment has been made; (2) title to all materials and supplies purchased under the contract vest to the owner; (3) the owner assumes the risk of loss for the materials; and (4) the owner, not the contractor, is responsible for defective materials and supplies, including those incorporated into reality. Until and unless all the requirements under this rule have been met, purchases by contractors remain taxable.

Proposed Law: The bill exempts materials, equipment, and supplies used or consumed in construction of the Guthrie Theater and related parking garage. Purchases by construction contractors are included in the exemption.

REVENUE ANALYSIS DETAIL

- The estimates were based on information from the Guthrie business office. Construction of a new Guthrie Theater is contingent on some amount of state funding. This analysis assumes that funding will be available this year and the project will go forward.
- Total estimated purchases qualifying for exemption were multiplied by the 6.5% state sales and use tax rate.
- Fiscal year impacts were based on the planned construction time lines.
- For the Guthrie Theater, projected materials, supplies, and construction labor costs are estimated at \$87.164 million. Of this amount, 50% was the estimated portion for materials, supplies, and incorporated equipment.
- As currently planned, Guthrie construction would begin in July 2003 and end in December 2005.
- For the related Minneapolis city parking ramp, the total project cost is \$24.3 million. Of this total, 45% was the portion estimated for materials, supplies, and incorporated equipment.
- As currently planned, parking construction would start in April 2004 and end 12 months later.

Source: Minnesota Department of Revenue
Tax Research Division
<http://www.taxes.state.mn.us/polic.html#analyses>