



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Emily O'Brien

District 42
5021 West Elm Court
Grand Forks, ND 58203-0606
eobrien@ndlegis.gov

COMMITTEES:
Appropriations

January 30, 2023

House Bill 1456
Finance and Taxation Committee, Representative Headland
January 30, 2023

Chairman Headland and members of the House Finance and Taxation Committee:

I am Representative Emily O'Brien, from District 42, in Grand Forks, North Dakota.

House Bill 1456 is a simple bill that was requested by a constituent.

Section 1 of HB 1456 modifies the definition of gross receipts to include installation charges.

The goal is not to change how the Tax Department taxes tangible personal property. This bill clarifies sales tax language around tangible personal property (TPP) installation and how the department interprets and practices this sales tax.

Here is one example from my constituent:

"A couple of years ago, we hired a subcontractor to supply and install kitchen equipment into a brand-new school in Watford City. Their contract was for just under \$400,000, including installation fees of about \$45,000. The subcontractor did not charge us tax on the installation fees. Our auditor claimed that about \$200,000 worth of equipment (ovens, dishwashers, mixers, etc.) was not affixed to the building, so they were TPP, and installing those items was taxable."

In 57-39.2-01 – Tangible Personal Property is defined as “means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses. Tangible personal property also includes electricity, water, gas, steam, and prewritten computer software.

I worked with the sales tax department and they confirmed this language is sufficient. I spoke with a few individuals from the industry, and they were not opposed.

Each state follows The Uniform Commercial Code, a comprehensive set of laws governing all commercial transactions in the United States. It is not a federal law, but a uniformly adopted state law.

This bill has a fiscal note – which may increase revenue to both the general fund and the state aid fund. This increase would be based on the number of eligible purchases that contain installation charges. That amount is unknown.

Thank you, Chairman Headland and members of the Finance and Taxation Committee. I will stand for any questions.