

2017 SENATE FINANCE AND TAXATION

SB 2112

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2112
1/4/2017
Job No: 26512

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 5 of section 57-39.4-19 and sections 57-39.4-29 and 57-39.4-33.4 of the North Dakota Century Code, relating to uniform tax returns, the taxability matrix, and tax administration practices under the sales and use tax agreement.

Minutes:

Attachment 1

Chairman Cook: Opened hearing on SB 2112, all Senators present.

Myles Vosberg, Director of the Tax Administration Division of the Tax Commissioner's Office: See attachment #1 for testimony in support of the bill

Chairman Cook: Agree, no changes, what would fiscal impact be if failed to pass the bill and found to be out of compliance and remote sellers no longer had to collect our sales tax.

Myles Vosberg: Numbers not on hand, over a 1000 businesses collecting taxes, had a requirement already through central registration. Numbers can be gotten, substantial amount collected through stream line.

Chairman Cook: 4 million a year?

Myles Vosberg: Not quite, but a bit of money.

Chairman Cook: Can you get us the numbers?

Senator Laffen: Explain the liability issue: process retailers use if mistakes made

Myles Vosberg: Agreement requires to prepare boundary tables, to determine taxing jurisdiction. Wrong info into charts, zip codes wrong, we waive the liability. Retailers aren't liable. We agree they aren't held libel as we provided wrong information.

Senator Laffen: Thought if 3rd party vendor's retailers if they made a mistake we were responsible.

Chairman Cook: Hearing closed.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2112
1/4/2017
Job No: 26518

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 5 of section 57-39.4-19 and sections 57-39.4-29 and 57-39.4-33.4 of the North Dakota Century Code, relating to uniform tax returns, the taxability matrix, and tax administration practices under the sales and use tax agreement.

Minutes:

No Attachments

Chairman Cook: Continuation of SB 2112, all Senators present.

Senator Dotzenrod: purchases from retailers who have a presence in North Dakota

Myles Vosberg: combination, all retailers registered through the central registration streamline system. Breakdown of retailers that are voluntary versus required. Physical presence, m

Senator Dotzenrod: Sales not online,

Myles Vosberg: Could be through some other mode, other companies shipping the goods to North Dakota. Breakdown can be found of who are voluntary versus those required.

Senator Dotzenrod: example of some of these 23.3 million dollars that are not online, but some other form, what would that be?

Myles Vosberg:

Senator Laffen: buy from Store in Virginia, don't sure if tax is collected. Would this be an example of business without presence?

Myles Vosberg: an example of a company that could voluntarily register and collect tax in other states.

Senator Laffen: and they would have to be registered through the central registration?

Myles Vosberg: register, identify the sales they do business in, could use a csp to calculate and collect tax form, or do it themselves and still file a return, but be registered through the central system.

Senator Laffen: do they pay tax directly to North Dakota or does it go to streamline sales tax and then it's distributed.

Myles Vosberg: all the tax is directly reported to North Dakota by the retailer or if csp used, if collected. I can look and see what types of businesses are registered. At least one company that did farm related, grain storage equipment.

Senator Dotzenrod: Always able to collect online sales tax from online retailers selling to North Dakota customers? Or is that an issue too?

Myles Vosberg: that collection has been an issue, depends whether they have a presence here. Company may make all its sales online, but have warehouse or sales people here. They would still have a physical presence here and be required to collect a tax. Trying to simplify a collection on those who have no presence at all.

Chairman Cook: Catalogs, such as Duluth Trading, Co., they do not collect sales tax in Minnesota, so would be required to pay the use tax.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2112
1/9/2017
Job No: 26689

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 5 of section 57-39.4-19 and sections 57-39.4-29 and 57-39.4-33.4 of the North Dakota Century Code, relating to uniform tax returns, the taxability matrix, and tax administration practices under the sales and use tax agreement.

Minutes:

No Attachments

Chairman Cook: Committee Action on SB 2112. All Senators presents. This would be commonly called the streamline sales tax bill. Streamline taxes has accomplished by making congressman aware of the burden on the businesses that have to collect them. Trying to reduce or minimize the burden. We meet twice a year, the Governing Board does. Ongoing process to improvement the agreement to reduce burden. No fiscal note. No fiscal impact. Adopt web service as standardized. Retailers go to one spot for info on sales tax. Taxability matrix. Every state required, to list with taxable and nontaxable items. Every state involved must require these.

Section 4 to relieve sellers and certified providers from liability if the state makes a mistake. The whole concept is that retailers need to identify the product code and if it's taxable or not. Once in the program, only thing needed is 9-digit zip code and the tax is computed and sent to correct jurisdiction. Latest movement from the Certified Service Providers (CSP) is that they are moving towards a software system that collects and remits all sales tax and the retailer will never touch the money. Money automatically streamed to the state. Simpler for retailers to collect and remit sales tax.

Senator Laffen: when put in place all online will be taxed, an enormous boon to state sales tax collections. Why has that not happened yet.

Chairman Cook: Online retailers are not going to be taxed, is the purchasers. What's the number? What is the number the estimate in uncollected sales tax?

Donnita A. Wald, General Counsel, North Dakota Tax Department: 300 billion dollars throughout the use. We are not able to drill that down.

Chairman Cook: Tremendous amount of money, there are 3 bills in Congress, the Main Street Fairness Act which was put together by the Streamline Sales Tax Governing Board and the Alliance of business that work with. Passed the Senate. House refuses to hear it. We have the votes in the house to pass it, Chairman of the Judiciary Committee, Congress Goodlatte – Virginia. Couple members of his committee has worked up other legislation, refuses to allow in for markup and he's now working on his own bill finally, that would have origin based sourcing. Can't get it out of committee. SD, AL and a few other states passed legislation, hoping to get to the Supreme Court and overturn Quill. If Supreme Court overturns Quill, could get collection authority with no simplification requirements. We'd lose legislators being concerned about the burden.

Senator Dotzenrod: It's still early on. Most internet sales aren't being taxed. Online purchases rarely have sales tax applied. Authority of Congress will see the impact. Even though it's a share of 300 billion. Online isn't 50/50 compared to in store sales. It's growing fast.

Chairman Cook: it's growing tremendously,

Senator Dotzenrod: How the money moves? Current brick and mortar retailers take out a small increment to pay for administrative costs. As we get more into this and becomes implemented in the future, who pays for the computers and the digitized system? Who watches and enforces. The retailer keeps a small amount of the sales tax. The retailer will get reimbursed by the states if has a large once a year, once a month. State pays something into the CSP's as a network.

Chairman Cook: If you are a remote seller, and you collect. Register for the 22 states, about 3300 that are voluntarily registered and collecting taxes. Governing board signs a contract with CSP's. They sign an agreement. The state receiving the tax, pays the CSP, who must provide the service free to retailers. Percentage of sales ranges from 2%-8%, depending on the volume, more collected the 8% goes down. Directed more supply and demand. Rather than negotiate a contract. Remote seller that collect North Dakota, you get to use a form to take out the 1.5%

Senator Dotzenrod right now, there isn't much of a network of CSP's out there. We'd see more as it becomes more of a main area instead of a gray area.

Chairman Cook: Yes, there is. The governing board is kind of the policing authority. CSP must develop software and needs to be tested by all states and then certified by each governing board.

Senator Dotzenrod: Interstate organization, the member states, that rules are uniform and applied.

Chairman Cook: 24 states that have complete compliance with the stream line sales tax agreement, every state has 4 delegates, but only 1 vote. Strict protocol. We have a staff of 3. Central registration is managed via website and register for all states through one form.

Senator Dotzenrod: If Congress acts and makes it federal law, the governing board will remain as rule making, not supersede and become a federal system.

Chairman Cook: Main street fairness act. Governing board would have a presence. If Quill gets overturned by Supreme Court, the role of the governing board would be only recognized by states who saw value in it. If no states saw any use, it would disappear.

Dee Wald: I don't know, it's very convenient for the retailers. In some part

Chairman Cook: California would want to use streamline if someone wanted to register, but California would have California rules, and this congress restricts California's ability to do so.

Senator Dotzenrod: Is California part of the 24 states?

Chairman Cook: No California is not part yet. The governing board and then the "SLAC" (State and Local Advisory Council) that's made up of all the states who want to participate. Colorado has not participated at all; it's dominated by local taxes. Local taxes are generally higher than the state tax.

Senator Laffen: Move a Do Pass.

Senator Unruh: Seconded.

A Roll Call Vote was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Cook will carry the bill.

Date: 1-9-17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2112

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Laffen Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chair Brad Bekkedahl	✓				
Senator Lonnie J. Laffen	✓				
Senator Scott Meyer	✓				
Senator Jessica Unruh	✓				

Total (Yes) 6 No 0
Absent 0
Floor Assignment Cook

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

REPORT OF STANDING COMMITTEE

SB 2112: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2112 was placed on the Eleventh order on the calendar.

2017 HOUSE FINANCE AND TAXATION

SB 2112

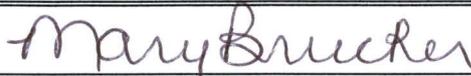
2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2112
2/14/2017
28316

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to uniform tax returns, the taxability matrix, and tax administration practices under the sales and use tax agreement.

Minutes:

Attachment #1

Chairman Headland: Opened hearing on SB 2112.

Myles Vosberg, Director Tax Administration Division, Office of State Tax Commissioner: Introduced bill. Distributed testimony. See attachment #1. Ended testimony at 7:20.

Representative Steiner: Can you explain how the governing board works? They are taking out majority vote and they're going back to whatever disclosed practice the governing board sets up. Do they still go with majority vote and that's included in their package?

Myles Vosberg, Director Tax Administration Division, Office of State Tax Commissioner: In order to change the agreement you need a $\frac{3}{4}$ vote of the member states. There are 24 member states currently and there is one vote per state. The administrative practices are somewhat separate from the agreement. They are identifying how states are doing things and posting it to the websites. There is a process where the 24 member states agree which practices should be reviewed and posted on the taxability matrix. There is no requirement for a state to follow any one of those particular practices. That is where the area is kind of different. Rather than trying to do additional common definitions or other simplifications, the idea has been to disclose what the states are doing to make it easier for the retailers to operate in multiple states.

Representative Hogan: Can you tell us a little about the state and local advisory council that is referenced on page 3, lines 22-23 and how it fits?

Myles Vosberg, Director Tax Administration Division, Office of State Tax Commissioner: The state and local advisory commission is more individuals like me, from the states that are there discussing the issues, recommending changes, or administrative practices, and how to itemize these practices on the matrix and so on. The state and local

advisory commission only makes a recommendation to the governing board who is the voting authority.

Chairman Headland: Am I correct in saying that Representative Hatlestad, Vice Chairman Dockter, Senator Cook, and yourself are members of the state and local advisory board?

Myles Vosberg, Director Tax Administration Division, Office of State Tax Commissioner: That is correct. The senators and representatives are on the governing board while I am a member of the state and local advisory commission.

Chairman Headland: Is there further testimony in support for SB 2112? Is there any opposition to SB 2112? Seeing none we will close the hearing.

Representative Hatlestad: We will be having an annual meeting this year being held in Bismarck for the Streamline Sales Tax Agreement. Senator Cook is the chairman.

Representative Hogan: MADE A MOTION FOR A DO PASS

Representative Hatlestad: SECONDED

Chairman Headland: Any discussion?

ROLL CALL VOTE: 14 YES 0 NO 0 ABSENT

MOTION CARRIED

Representative Hatlestad will carry this bill.

Date: 2-14-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2112

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Hogan Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	✓	
Vice Chairman Dockter	✓		Representative Mitskog	✓	
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE

SB 2112: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2112 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2112



North Dakota State Tax Commissioner's Testimony before the Senate Finance and Taxation Committee Senate Bill 2112

January 4, 2017

Prepared by Myles Vosberg, Director Tax Administration Division
North Dakota Office of State Tax Commissioner
Phone: 701-328-3471
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Introduction

Good morning Chairman Cook and members of the Senate Finance and Taxation Committee. For the record, I am Myles Vosberg, Director of the Tax Administration Division of the Tax Commissioner's Office. I am here today on behalf of the Commissioner to testify in support of Senate Bill 2112, which will maintain North Dakota's Compliance with the Streamlined Sales and Use Tax Agreement.

Background

North Dakota has participated in the Streamlined Sales Tax (SST) project since 2001 and has been a full member of the Streamlined Sales and Use Tax Agreement (SUTA) since 2005. We have requested law changes every session since 2003 to remain in compliance with the agreement. As you know, the SST project has been a joint effort of state and local governments, the business community, tax practitioners, and many trade associations to simplify the sales tax laws and reduce retailers' burden to collect state and local sales taxes in all member states.

The compliance requirements of the SUTA have been adopted into North Dakota law in Chapter 57-39.4 since the inception of the agreement. All three sections in this bill further amend Chapter 57-39.4 and maintain North Dakota's compliance with the Streamlined Sales and Use Tax Agreement; however, none of the amendments have a fiscal impact or change the current administration of North Dakota's sales and use tax laws.

Explanation of bill

Section 1. All twenty-four member states of the SUTA have agreed to use “web services” as the standardized return transmission process that allows states to accept electronic sales and use tax returns from retailers and return preparers. Web services consist of specific types of software and processes that allow communication between entities that use different types of computer operating systems. Section 1 of the bill simply acknowledges this requirement to use web services. The Tax Commissioner’s Office has implemented the required web services and is currently using them to accept electronic returns.

Section 2. The beginning years of the Streamlined Sales Tax project focused on creating uniform definitions and simplification standards that would help make it easier for retail businesses to operate in multiple states. For the past few years, however, more emphasis has been placed on identifying tax administration practices of each state and disclosing those practices to help provide guidance to retailers doing business in multiple states. The standardized document used to disclose each state’s practices is known as the “taxability matrix.”

The SUTA requires each member state to complete a new taxability matrix annually and to make updates to the matrix during the year should any changes occur before the next annual update. Taxability matrices are posted to the Streamlined Sales Tax website and linked to each member state’s website to make administrative policies visible to all retailers. In addition to the disclosure, member states agree to provide liability relief, to the extent possible, to a retailer or a certified service provider (CSP) for collecting the incorrect amount of tax if any information placed in the taxability matrix by the state is incorrect and the retailer relied on that incorrect information to determine the amount of tax to collect.

Originally, the taxability matrix was limited to uniform definitions; however, during the last two years, the SST Governing Board amended the SUTA to expand the taxability matrix to include administrative practices in addition to the definitions. Current administrative practices disclosed in the matrix are calculation of tax on vouchers (deal of the day transactions), application of credit for tax paid to another state when goods were purchased in one state and subsequently moved to another state and, and liability relief treatment for errors in the matrix. Other practices currently under review with the intent of disclosing them in the taxability matrix are handling of returned sales and retailer charges related to a returned sale.

The amendment in Section 2 of the bill acknowledges the addition of tax administration practices in the taxability matrix. In addition, the new language beginning on line 19 of page 2 of the bill also codifies that North Dakota will relieve liability for retailers and certified service providers if the retailer or CSP failed to collect the correct tax due on a transaction because it relied on incorrect or outdated information in the taxability matrix.

Section 3 of the bill identifies the process the streamlined sales tax member states use to develop and approve tax administration practices and also states that the SST Governing Board may identify which administration practices it considers as a “best practice.” States are encouraged to implement best practices, but are not required to do so to be in compliance with the SUTA. The concept of adding administration practices to the taxability matrix is relatively new and no practices have yet been identified as a “best” practice.

Fiscal impact

The changes in Senate Bill 2112 have no fiscal impact.

Conclusion

Although the the amendments addressed in SB 2112 have no substantive impacts on the administration of North Dakota sales and use taxes, approval of the bill will document North Dakota’s compliance with Streamline Sales and Use Tax Agreement. The Tax Commissioner’s Office respectfully requests favorable consideration on Senate Bill 2112. Thank you.



#1
2-14-17
SB 2112

North Dakota State Tax Commissioner's Testimony before the House Finance and Taxation Committee Senate Bill 2112

February 14, 2017

Prepared by Myles Vosberg, Director Tax Administration Division
North Dakota Office of State Tax Commissioner
Phone: 701-328-3471
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Introduction

Good morning Chairman Headland and members of the House Finance and Taxation Committee. For the record, I am Myles Vosberg, Director of the Tax Administration Division of the Tax Commissioner's Office. I am here today on behalf of the Commissioner to testify in support of Senate Bill 2112, which will maintain North Dakota's Compliance with the Streamlined Sales and Use Tax Agreement.

Background

North Dakota has participated in the Streamlined Sales Tax (SST) project since 2001 and has been a full member of the Streamlined Sales and Use Tax Agreement (SUTA) since it became effective in 2005. I know many of you are familiar with the SST project, which has been a joint effort of state and local governments, the business community, tax practitioners, and many trade associations to simplify the sales tax laws and reduce retailers' burden to collect state and local sales taxes in all member states.

The compliance requirements of the SUTA have been adopted into North Dakota law in Chapter 57-39.4 since the inception of the agreement. All three sections in this bill further amend Chapter 57-39.4 and maintain North Dakota's compliance with the Streamlined Sales and Use Tax Agreement; however, none of the amendments have a fiscal impact or change the current administration of North Dakota's sales and use tax laws.

#1
2-14-17
SB2112

Explanation of bill

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Section 2. The beginning years of the Streamlined Sales Tax project focused on creating uniform definitions and simplification standards that would help make it easier for retail businesses to operate in multiple states. For the past few years, however, more emphasis has been placed on identifying existing tax administration practices of each state and disclosing those practices to help provide guidance to retailers doing business in multiple states. The standardized document used to disclose each state’s practices is known as the “taxability matrix.”

The SUTA requires each member state to complete a new taxability matrix annually and to make updates to the matrix during the year should any changes occur before the next annual update. Taxability matrices are posted to the Streamlined Sales Tax website and linked to each member state’s website to make administrative policies visible to all retailers. In addition to the disclosure, member states agree to provide liability relief, to the extent possible, to a retailer or a certified service provider (CSP) for collecting the incorrect amount of tax if any information placed in the taxability matrix by the state is incorrect and the retailer relied on that incorrect information to determine the amount of tax to collect.

Originally, the taxability matrix was limited to uniform definitions; however, during more recent years, the SST Governing Board amended the SUTA to expand the taxability matrix to include administrative practices in addition to the definitions. Current administrative practices disclosed in the matrix are calculation of tax on vouchers (deal of the day transactions), application of credit for tax paid to another state when goods were purchased in one state and subsequently moved to another state and, liability relief treatment for errors in the matrix. Other practices currently under review with the intent of disclosing them in the taxability matrix are filing amended returns and processing refunds related to returned sales.

#1
2-14-17
SB 2112

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