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ROLL NUMBER

DESCRIPTION

2359

2005 SENATE FINANCE AND TAXATION

SB 2359

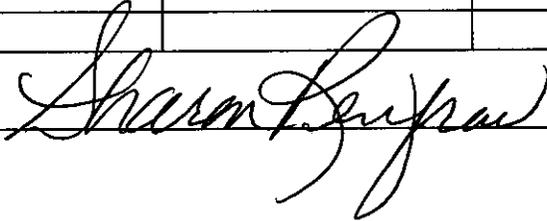
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2359**

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **February 7, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		31.7 - 53.5
Committee Clerk Signature 			

Minutes:

SEN. COOK: appeared as prime sponsor of the bill and handed out Article VI stating this deals with streamline sales tax and more important legislation regarding policy of streamline sales tax. Sen. Cook explained the bill and what it does.

SEN. URLACHER; can there be justification for spending more, more return or

ANSWER; that's the 100 million dollar question, how much more could we justify. There's a lot to gain by implementing streamline. The report that I took to the floor after the interim comm. Study revealed 27 million dollars is what is estimated that ND loses in use tax revenue or use tax that is not collected. That's 27 million dollars a year.

SEN. URLACHER; I think ND has been very fortunate with 640,000 people to have been involved at the table to the extent that they have. Sen. Cook has been appointed has been appointed co-chair of the governing _____. The reason it is happened is our voice in the system.

SEN. WARDNER; so in this bill, you want to keep the compensation the way it is in the state, the way it is now and move out to the remote sellers. Your not indicating an increase in

ANSWER; that is correct, I think we have 3 choices with this piece of legislation. 1 is to leave it just as it is and let that be the policy of ND understanding that it could possibly take us out of compliance unless we can work at changing the streamline agreement. 2nd choice is to basically follow the language that is in section 601 which we might even know before we go home what that cost is going to be. 3rd choice is something in between those.

SEN. URLACHER; now, sending in on a quarterly report, there is no charge if you wanted to compensate, (there is no compensation) on the portion where we put it under the system then there will be a charge to the place for those that haven't been compensated. So there seems to be some justification to some degree of aggressing that variable

ANSWER; that's correct, again the challenge so is at this point we do not know what its going to cost and we could possibly know that by the March meeting.

SEN. BERCIER; NCSL this is a big issue, is there a percentage right now that's kinda floating around that might reflect something different than the 1.5?

ANSWER; within the streamlined group, that's what we might know by March

SEN. URLACHER; we don't want to go out of compliance because we'll be losing 24 million a year.

MILES VOSS; Tax Dept. We don't have anything to add, we did pass the proposed amendment for the streamlined agreement onto the cochairman of the conforming states regarding changing the amount of compensation or the way that its compensated in the agreement, we really haven't gotten any feed back on that. Hopefully by March meeting we will.

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Senate Finance and Taxation Committee
Bill/Resolution Number SB 2359
Hearing Date February 7, 2005

Closed the hearing.

SEN. TOLLEFSON: made a **MOTION FOR DO PASS**, seconded by Sen. Every.

ROLL CALL VOTE: 6-0-0 Sen. Cook will carry the bill.

FISCAL NOTE
Requested by Legislative Council
04/21/2005

Amendment to: SB 2359

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2359 with Conference Committee Amendments allows compensation for administrative expenses to be claimed by retailers or certified service providers under the streamlined sales tax project, in a manner similar to that allowed to in-state retailers with a physical presence in North Dakota. The compensation is limited to the lesser of 1.5% of the tax collected, or the amount provided by the terms of the streamlined sales tax agreement.

The fiscal impact of the provisions of SB 2359 with Conference Committee Amendments cannot be determined as it is dependent upon the amount of new sales tax revenue that will be received from out-of-state retailers who voluntarily register and collect North Dakota sales tax because of the enactment of the streamlined sales tax project.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	04/21/2005

Date: 2-7-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2359

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Tollefson Seconded By Every

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment COOK

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

REPORT OF STANDING COMMITTEE (410)
February 7, 2005 12:39 p.m.

Module No: SR-24-1972
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2359: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2359 was placed on the Eleventh order on the calendar.

2005 HOUSE FINANCE AND TAXATION

SB 2359

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2359

House Finance and Taxation Committee

Conference Committee

Hearing Date **March 7, 2005**

Tape Number	Side A	Side B	Meter #
1	X		4.6
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

SEN. DWIGHT COOK, DIST. 34, MANDAN Introduced the bill. This bill deals with the North Dakota policy on how we would compensate remote sellers. This particular piece of legislation, if we passed it, would probably take us out of compliance with the streamlined sales tax. This is an issue that the four of us who represent North Dakota, have some great concerns with. The bill states that a remote seller who collects sales tax from North Dakota will get compensated in the very same manner in which we compensate instate buyers who borrow money which is 1 1/2 %. We do not know what the state of North Dakota would be required to compensate a remote seller. That decision will probably not get made until later on this year. The way the agreement is right now, what we compensate remote sellers will be determined by the governing board when they issue contracts with what is called, service providers. The intent is that they would issue contract that would provide zero financial obligations to remote sellers

who use a certified service provider. The compensation would be equal to the cost of what the provider service would be. There are two concerns with that, one, that somebody else outside the state of North Dakota, could actually decide what it is that we are going to compensate remote sellers, and the other issue is, we have to put a figure in there. North Dakota has issued amendments to the streamlined agreement, to address this issue, which would allow the state of North Dakota to elect what they will compensate remote sellers. Those issues will be addressed at the streamlined meeting which is scheduled for April 16, 2005.

REP. BELTER You wanted this acted on before the April 16 meeting?

SEN. COOK Not necessarily. You will have a date when you have to get this out of committee long before April 16. Change the bill in a way to create a need for a conference committee.

REP. CONRAD If we are out of compliance, does that mean we can't participate for two years?

SEN. COOK If we are found out of compliance, states could still voluntarily collect and remit sales tax to North Dakota and follow our compensation policy, but we would not be allowed to be part of conforming states where a remote seller could have one place of registration, and subject themselves to one audit, and that would be among all the states who are in compliance.

REP. CONRAD What is our option?

SEN. COOK The other option would be to cross legislation that is silent to compensation and says that what other states are doing to be in compliance, it says they will compensate remote sellers and that the compensation would come out of sales tax collected. That is what South Dakota has done.

REP. CONRAD What is the downside, why would it be an issue that we would want to forego to participate?

SEN. COOK Those are the questions. The downside, I think some of us might have a sovereignty issue as to who should determine what it is that we compensate remote sellers, whether that decision should be made by the North Dakota legislature or be made by what we call the conforming states or governing states.

REP. CONRAD Maybe we should compensate them more then what we do instate, will this exclude us from doing that if that is a reasonable approach?

SEN. COOK I think there are some grounds to compensate them more then the instate sellers, that is still a policy issue that needs to be discussed, and this legislative body needs to determine how much more we need to compensate them.

REP. CONRAD When will we decide that?

SEN. COOK When I talk about this, it is very good. We have some target dates that we need to meet. These are the challenges that every state that is in session right now, has to meet. We just had a streamlined meeting this week-end, and we were told that we won't know the comps until October.

REP. WRANGHAM Could you give us a little information about who would be making this decision without this legislation, you mentioned conforming states. Do the conforming states have a committee who will do this, or who is they?

SEN. COOK If you go into that white book I handed out earlier, in the streamlined agreement, Article VI, defines the compensation. It is there where it says the level of compensation will be determined by the governing states when they issue contracts with the certified service providers. The governing states at that time, and the earliest we can have those is October 1. We could be one of the governing states if we are found in compliance. Every state will have one vote.

REP. SCHMIDT What do these states get now?

SEN. COOK State filers who file on a monthly basis fet 1/1/2% with a limit of \$85 per month.

Those of us who file quarterly, receive no compensation.

REP. SCHMIDT Wouldn't that cause a rift between the out of state and the instate?

SEN. COOK That is part of the debate of this whole issue.

GARY ANDERSON, STATE TAX DEPARTMENT Testified in a neutral position.

Commented on Rep. Schmidt's question. The filers we are talking about, would be the ones voluntarily coming forward and voluntarily collecting sales taxes for North Dakota. In effect, what we are looking at, that payment for these, would be based on the monies collected, but these would be new monies coming in. That is the premise of the streamlined sales tax, is to simplify it in such a manner that it brings forward additional businesses, taking on that responsibility.

REP. WRANGHAM Do you envision that the other states might set this compensation to almost, where we couldn't call it voluntary compliance anymore?

GARY ANDERSON I think our legislative delegation, have pointed out that concern.

REP. WEILER Could you explain to the committee about the makeup of the governing states that sits around the table?

REP. DROVDAL Currently, there is 40 members. Each state has one vote, and each state determines who their delegates are. When you go from the conforming states to the governing board, which is when the SSTEP is up and running. They will elect a governing board within these states that have reached the conforming issue. Once a year these delegates will meet and vote on by-laws and rules of procedure. North Dakota is unique, in that it is only legislators that are involved.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2359**

House Finance and Taxation Committee

Conference Committee

Hearing Date **March 9, 2005**

Tape Number	Side A	Side B	Meter #
2	X		18.3
Committee Clerk Signature			

Minutes:

COMMITTEE ACTION

REP. DROVDAL Presented amendments to committee members which would relate to Section 4 to provide an effective date to July 1, 2006.

REP. DROVDAL Made a motion to adopt the amendments as presented.

REP. WEILER Second the motion. Motion carried by voice vote.

REP. DROVDAL Made a motion for a **do pass as amended**.

REP. WEILER Second the motion. **MOTION CARRIED.**

14 YES 0 NO 0 ABSENT.

REP. WEILER Was given the floor assignment.

Date: 3-9-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2359

House FINANCE & TAXATION

Committee

Check here for Conference Committee

Legislative Council Amendment Number 50783.0101

Action Taken Do Pass AS amended

Motion Made By Rep. Drovdal Seconded By Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Weiler

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

REPORT OF STANDING COMMITTEE

SB 2359: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2359 was placed on the Sixth order on the calendar.

Page 1, line 4, after "agreements" insert "; and to provide an effective date"

Page 2, after line 3, insert:

"SECTION 4. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2006."

Renumber accordingly

2005 SENATE FINANCE AND TAXATION

CONFERENCE COMMITTEE

SB 2359

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2359**

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **April 11, 2005**

Tape Number	Side A	Side B	Meter #
# 1	X		13.7 - 17.3
Committee Clerk Signature <i>Sharon Lyfrow</i>			

Minutes: CONFERENCE COMMITTEE

SEN. COOK: just for your information this conference committee got scheduled a lot earlier than what I had planned so I think what we'll do is probably just adjourn here today as a brief explanation of why and then come back again Wednesday after probably for an hour on both this one and 2050. Just for you I know this side of the table we are the 4 of course have been representing ND during the streamline sales tax project, there is a meeting this Saturday of the implementing states, you've heard this through the testimony its a very important meeting and has to do with the target date of October 1st. There are 16 amendments being offered to that meeting to the streamline agreement at that meeting, one of them is being offered by the State of ND and the one that's being offered by us deals directly with 2359, is what we compensate remote sellers. But my intent on Wednesday then is especially for my benefit is I go to represent ND this Saturday we'll have Gary Anderson or Miles Vosberg from the sales dept., tax commissioners office go over the 16 amendments, especially so I can have dialog as far as any

particular direction we feel ND should go. We'll go over them as to what degree any of these amendments will affect our streamline agreement and what we have to do. My understanding is probably the only one that will have any effect on our agreement is the amendment being offered by ND. We should still go over them all so we understand the purpose of them and any other changes that are being made to the agreement to help aid this October 1 start up date, we'll have a general discussion on the merits of these amendments and the action ND should take and we'll go to that meeting on Saturday.

REP. WEILER: I know we are not going to get our answers until this weekend, is there a reason for us to meet on Wednesday? If we're not going to know what we need to know until next Monday, is there a reason?

SEN. COOK: I think the biggest reason is for my benefit to review and its nice when there is 2, 3 or 4 of us sitting at that table, you know the dialog that we have amongst ourselves, I'd like to have a little bit of that dialog before I go off and cast North Dakota's vote.

Meeting adjourned.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2359 & SB 2050

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **April 13, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		0.0 - 29.9
Committee Clerk Signature <i>Sharon Enyuan</i>			

Minutes:

CONFERENCE COMMITTEE

SEN. COOK: it was my hope that we would be able to go over these amendments briefly especially the ones the will affect ND and that are going to be addressed Saturday at the implementing states meeting and to just lay the ground work so that next week we can come into conference committee and digest what happened at the meeting of the implementing states and make the final decisions that we have. Of course what we have here before us in SB 2359 is the effective date and next week we're going to have to decide when we want our effective date to be we will know then whether October 1 is still a legitimate start up date for implementing streamline sales tax target project and if that is still an effective target date and do we or do we not want to be there at the table October 1 and if not then of course when do we want to have our effective date set. Right now as the bill sits, the effective date is July 1 of 2006. The other bill we have 2050 deals with how we compensate remote sellers, that is the one issue as Sen. Urlacher, myself, Rep. Drovdal, and Rep. Weiler have represented ND in the streamline project,

its the one area where we have state concerns where we have voiced our concerns. One of the amendments that will be offered Saturday addresses our concerns and just so you understand we hear a lot about the sovereign rights of states, the way the agreement is right now the compensation level for remote sellers would be established by the conforming states and the conforming states review the states that are in compliance at the time of start up of which we could be one. The conforming states is the group that I am a CO-chair of and that is who would set the compensation rate for remote sellers, it would be out of our hands. It is based on what certified service providers who are the new creation in the whole project, the whole purpose is to simply collect and remit sales tax for remote sellers. The way the agreement is that remote sellers that utilize a certified service provider would be able to collect and remit sales tax at no cost to the remote seller. In other words, the states would have to pay the full cost of whatever these certified service providers are going to charge. We do not yet know that price, the conforming states, its the RP, they've come in we haven't chooses who these certified service providers are going to be yet but once that decision is made then of course we will know what that cost is but I think we can be assured that right now that cost is going to be more than what we compensate our own sellers for collecting and remitting sales tax. So that I believe is a very important policy decision for this state legislature to make, that's why decision has been put into one bill, SB 2050, of course how we make that decision could also affect whether or not we are in compliance, that we will know by Saturday also. That gives you an overview of really the issues at hand and the decisions we have to make yet before we go home.

GARY ANDERSON: Tax Dept. Appeared to go over the amendments (see attachment)

SEN. COOK: a member state may not, there putting the word not in there utilize the system when the purchaser exempt payment of taxes is issued in identification number that shall be presented to the seller. Why would they not want them to?

MILES: Tax Dept. I think there was a little misunderstanding on their part because we issue numbers to exempt organizations and so on, the idea was there will be a standard exemption certificate that all states would use, the user will come in and identify themselves with this number on the purpose of the exemption. There was some industry people that did not want to have to worry about numbers. I think they were under the impression that the state wanted the seller to make sure that it was a valid number, which is a legitimate concern, we have no way of knowing whether its legitimate or not. The states intention was to provide this number on the certificate then if the state does an audit they can follow up on purchasers to see whether these are valid numbers or not. I think after the last meeting there was less concern this maybe withdrawn or their may be changes to it.

GARY ANDERSON: we do that now in ND when somebody presents a re___ if you would, a number we don't ask the retailers to try to verify that number and say is this a valid number or not. We take the ___ness of working directly with the customer if we feel there's a question.

SEN. COOK: committee, again to put things into perspective here so I hope you understand this, this is the agreement, this is what we've been working through all the implementing meetings for the last 3 years and its amazing you can sit there and spend an afternoon debating what the language should be for a definition of say candy. This will probably be the last meeting of the implementing of the states, the last opportunity to put this in the final form and if it goes October 1 as planned then this agreement goes from the ownership of the implementing states to

the conforming states and we'll go from 43 states at the table through possibility 19 or less, whatever the original conforming states are, then they have the ownership of this agreement and they have the right amend and change this agreement, right Gary?

GARY: Yes

SEN. COOK: if ND is not a member of the conforming states you'll see that SB 2050 has been amended so that there's opportunity to be a member of the local government and advisory council, we would not have a vote on what this agreement says but we would sit on a council where we could hopefully influence or as a council advise and have input at it. So that's one of the important things that we as North Dakota as we deliberate, do we want to be there immediately that we got to consider.

SEN. EVERY: so by voting the date to October 1st that we maintain our seats on that organizing, so what's the down side to not using October 1st date?

SEN. COOK: for us there is one downside that we struggle with the four of us and that is the issue of what we compensate remote sellers. Now maybe a lot of the sting of that will be removed here shortly when we find out what the costs are for these certified services providers ya know if we find out, as we make our argument Saturday we're going to have some support I don't know if we'll have enough but we might come back and amend 2359 or 2050 that we do compensate remote sellers more than what we're compensating our North Dakota retailers. The Retail Association, they're aware of this issue and they have polled their retailers, those who are members they understand the importance of streamline passing for leveling the playing field between brick and mortar businesses in ND and these remote sellers. They would support compensating out of state sellers more than we do ours but we've got to know how much. This

still leads to one issue and that is in my mind I always believe that what we compensate remote sellers should be our decision.

SEN. URLACHER: But that process right now is in motion is it not?

SEN. COOK: very fluid and in motion.

REP. CONRAD: so Saturday you'll know what the price is or have an idea?

SEN. COOK: I don't think we will on Saturday will we yet?

GARY; I think the last piece of information I got from the interim director that possibly like September for sure, so I think if they provide any numbers at all at this meeting its going to be an estimate, but I think that's what we need to know is just even from an estimated stand point what that could be.

SEN. COOK; its possible that the amendments we are offering, North Dakota, could change to at least maybe put a cap on what it is. In the amendments they basically have it so that we compensate the seller, not the certified service provider and I still believe that's where we made our mistake is when we made it so that we are compensating certified services providers rather than the seller. I think we should deal with the seller and the seller should sign their own contract with a certified service provider whoever can provide the service.

REP. CONRAD: reference to 11 million dollars a year, that we could if everything were to be put in place and everybody agreed and the Congress made everybody participate, that's a lot of money and also I looked at the sales tax in the last 10 years in the red book and our sales tax ___ for the last several years because of Internet and catalog sales, you mention that to people and they say well sure, that's what I do in my house so I think _____ for retailers is important to level that field.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB 2359 & SB 2050

Hearing Date April 13, 2005

REP. DROVDAL: the only clarification you did a good job would be the number of states is 18 or 19 as long as they represent 20% of the population.

SEN. URLACHER: that revenue, revenue estimate is we're in a time that's been way beyond that 11 million.

SEN. COOK: 27 million is what I know I was presented for the interim committee.

Adjourned the committee.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2359 & SB 2050**

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **April 18, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		0.0 - 19.4
Committee Clerk Signature <i>Sarah Longrow</i>			

Minutes: **CONFERENCE COMMITTEE**

SEN. COOK: Committee we are going to combine these two again (2359 & 2050), I just want to give you a brief overview of the action that happened Saturday in the Implementing States meeting explain the things that happened relative to these two bills that we have left to deal with and the options that we have. I can tell you that I met with the Tax Commissioners office this morning and their are amendments being drafted to 2359 dealing with the compensation and we have a good idea of what we would like to do with the implementing date effective date. For today I just want to bring everybody up to date and hopefully tomorrow we can meet and deal with these amendments.

So you understand exactly how these two bills fits in to what's going to happen down the road as far as organizations and this we have the implementing states, that's the meeting that was Saturday there's 40 states and anything that passed on Saturday had to have a ¾ ths vote, majority of the 40 states to support of these changes that we went over. The implementing states t y

have ownership of the agreement right now. The goal is to get to the governing states the requirement that we have in the agreement is that as soon as we have a minimum of 10 states that equals 20% of the total population from the states that collect and remit sales tax, 45 states, then we can then implement, start the governing states and implement a program target date, for that right now is October 1 of 2005. We have in between here what's called the conforming states.

Handed out streamlined sales tax conforming states.

The sole purpose of this conforming states was a hand over transition from implementing to governing. If you look at the list of 19 states that you have there, since these 19 states came together, there are states are starting to recognize some challenges. The biggest challenge being recognized by states is trying implement the sourcing rules. The best way I can describe that its not a challenge to ND, in ND I have a business in Mandan if I sell something to Wahpeton I collect and remit sales tax to Wahpeton. Not all states do it that way. ND has a concern with compensation of remote sellers because of that challenge it appears that come October 1, we were not going to meet that 20% requirement, so rather than let this stalled, they created what's called an associate member and what an associate member is would be a state that would be sufficient to become a governing states but not quite yet into compliance. There might be one or two issues that keep them from being in compliance and they have a effective date that's still passed October 1. Those states would be an associate member, they would have the right to vote on the agreement, they would not have the right on other states coming in and as soon as we have 10 states with 20% of the population that we're fully in compliance, all associate members would be over with. Sometime in August or Sept. We will have the the ___ piece back and the final quotes from the certified service providers which will tell us what remote sellers are going to be

compensated, that ours challenge and that's why we have the other bill dealing with compensation is because we have to do something so that we can petition and be approved here and it has to speak towards compensation and we don't know what the compensation is going to be yet. That's our challenge. The plan right now is to move our affective date to October 1 so that we can surely be a member of the governing states that we are going to amend the compensation bill. Right now we compensate ND sellers at 1 ½ % with a cap of \$85 per month. The 1st one is \$75 per month per seller. The 2nd one 1 ½ % to 4% of tax collected based on each States volume. The 3rd one 2.75% of gross revenue, 4th one 1.8% of tax collected plus a 10 cent transaction fee per sale and a minimum of \$10 per month per seller. The 5th one 25 cent transaction fee, 5% of new revenue for 2 years. 6th one 25,000 per state to customize their web site, 50 cents for transaction with a minimum of \$5,000 per month and a maximum of \$30,000 per year, 7th one \$3.50 to \$6.00 per month per state for each seller plus 1 ½ % to 5 ½ % fee up to a maximum of \$1,750 per location per month. The point I'm making is that what most of these RFP's are coming in from certified service providers is they are going to be charging a lot more money than what we are compensating our own sellers right now and that to me is an issue that we have to deal with and the second challenge of course what we compensate is not made within the state of ND its made by this group right here. There is a chance the way this is drafted I believe, its not only a matter of compensation, there is a chance the way this is drafted that ND would end up compensating a remote seller who gives us no money.

The real important deal of moving this to October 1 is if we do that, the only issue that they would have with ND is petition for membership would be our compensation and that's where I want it to be and that's where I think it should be. I don't know if that's a quick and condensed of

an explanation as I can give to where we're at and what's happening, we should have amendments down here tomorrow on both bills, that's kind of where we're at. It's very imperative that we not only move forward with this but that we do it in a way that's not only right for ND but if we can bring any influence to the table and make sure that the whole project is done right, I think that's well worth our efforts. There's a day coming there's no doubt in my mind where no matter where you make a purchase, its going to be subject to sales tax and the sales tax is going to be collected and we've got to get there.

REP. WEILER: you eluded to that we could draft something up that we would agree to pay 1½%

And remove the cap for a period of 2 years. The question that comes to mind is I would imagine you mean for the next legislative session to take place, is that right? So that we could try to fix

SEN. COOK: the 2 years I'm thinking are calendar years 2006 and 2007, those 2 calendar years, that's what I'm thinking and we could revisit it in the legislative session in 2007.

REP. WEILER: the reason I had that question is because once the governing states make up their mind about the compensation is going to be, their not going to change their mind until we would have to change our statute to either agree with them or get out.

SEN. COOK: your are correct but there is another reason too, if you look at Article VI, the compensation you will see some language there especially for model 2 and model 3 sellers that anticipates a higher degree of compensation for the 1st two years, basically recognizing that there is going to be some start up expenses and actually its in all 3 models, model 1 also.

REP. WEILER: what kind of a problem is this going to propose to the retailers or the businesses now in ND that collect just that. If we have to pay the CSP's if they get more money

they get a bigger percentage, what has there been, I know Russ Hanson is here, problem with that?

SEN. COOK: I will never know, I certainly communicated with both Dave McIver and Russ Hanson to communicate to their various organizations and report back, they have both reported that their members are certainly understand the need to compensate the remote sellers more for a period of time and are willing to do so understanding the benefit of getting everybody on an equal playing field.

REP. CONRAD: when was the cap changed the last time?

SEN. COOK: doesn't know

REP. WEILER: question on compensation, you mentioned that in 2 years that may be lowered will we know that coming up. I mean we're not going into this thinking that maybe in 2 years they'll lower it, we're gonna know probably by August 1st that its going to be this for 2 years and then its going to be lowered to this.

SEN. COOK: I think that's very accurate, come the end of August early September we're going to know those numbers. The amendments will put it at 1 ½% with no cap or a lower amount if that is what the conforming states agreed to or the governing states agree to. So in other words if the RFP's and the contracts are signed for an amount lowered than that, then that is what we will pay.

SEN. URLACHER: at one point it will take 2/3rds vote in order to change any of it.

SEN. COOK: the federal legislation, everybody there is very concerned about the success that this has in Washington and its got a lot of bipartisan support, I think Dorgan is one of the sponsors of the bill.

Page 6

Senate Finance and Taxation Committee

Bill/Resolution Number SB 2359 & SB 2050

Hearing Date April 18, 2005

REP. DROVDAL: you mentioned 30 states out of the implementing states, is that the same requirement for the conforming and for governing states? 2/3rds vote to change the bylaws.

SEN. COOK: I believe it is, 2/3rds or $\frac{3}{4}$, its not a simple majority. With that, hopefully we will have the amendments tomorrow and finish our discussion then.

Adjourned the meeting.

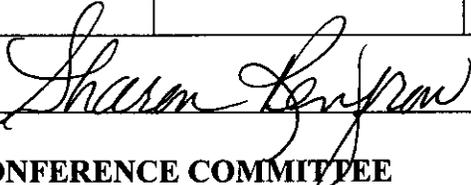
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2359**

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **April 19, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		0.0 - 6.3
Committee Clerk Signature 			

Minutes:

CONFERENCE COMMITTEE

SEN. COOK: Handed out amendments (50783.0103) on basically what we talked about yesterday, a retailer that is a remote seller through a certified service provider or by other means. A certified service provider would be model 1 other means would be model 2. Pays the taxes and the same limitations under the sections of law taxable sales made before July 1, 2007 at the sunset may deduct and retain 1 ½% of the tax due or such lower percentage as agreed to and the compensation agreement as approved by the streamline sales and use tax. So if the agreement in the streamline, the contract for the service provider are going to be for less than 1 ½%, we pay them off as less, if its more than that we pay 1 ½%. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain. Subsection 2, you won't see it in the bill but that is the section that has the \$85 cap, so that is where the cap is removed. And then for the purpose of this subsection, remote seller gains a retailer that does not have an adequate physical presence to establish and access to the state for sales tax purposes.

Gary Anderson is here are there any questions? The motion would be that the House recede from their amendments and further amend.

SEN. EVERY: made a **MOTION THAT THE HOUSE RECEDE FROM THEIR AMENDMENTS AND TO ADOPT THE AMENDMENTS (50783.0103)**, seconded by Rep. Weiler.

SEN. COOK: any discussion?

REP. DROVDAL: I'd like to ask Gary Anderson if we are going to have a conflict down the road from a large merchant who would be a candidate for a certified service provider ____ states that are members of the agreement and yet has a nexus in the state, we would reimburse his competitor at a higher rate than we would reimburse him because he has nexus in the state. Are we going to have a discrimination problem treating him different than somebody from out of state.

GARY ANDERSON: I don't believe I can answer from a legal standpoint, I think as I understand streamline provisions would drop in regards to how each of those situations would be dealt with. They even ____ declined different applications to apply to each one of those so it seems to me that it wouldn't be any different then what we have right now, we distinguish between our own retailers, the larger retailers right now receive a compensation the smaller ones don't and it just seems to me that it would be much different from that respect. You've got different classes of retailers that are that the compensation is being applied to in different manners.

REP. DROVDAL: maybe I'm seeing a road block that isn't there but it seems that as a large retailer would want to go on board as a streamline sales tax he'd want to do all of his sales tax

remittance on one form on the same procedure over the Internet admit it all the same and yet we're making him, we're separating them out and dealing with him separate in his home state than it would be in any other state.

GARY: that wouldn't be true because all filers are going to be able to use the same filing report. What we'll have is basically in ND we'll probably use two, the existing one where all retailers continue to use as they wish but we'll have an abbreviated form that's available. The one defined by streamline is an abbreviated form that would be available to businesses whether their looking in the state or out side the state. Because there wouldn't be any distinction in terms of if your actually looking at the mechanism for which they would directing information to our office, the tax returns in affect, there wouldn't be any difference between the states which they have a physical presence and the state which they are probably voluntarily filing under streamline, they really shouldn't see a distinction, they would file one report or and it would distributed out.

REP. DROVDAL: so the only distinction would be the amount of reimbursement they would get in ND?

GARY; exactly

SEN. COOK: if you had a large company that was selling all over the U.S. And they were located in ND, they had a nexus in ND, right now that company would be required to collect and remit sales tax on all sales made in ND to ND, correct?

GARY: that's correct.

SEN. COOK: they would not be required to collect and remit sales tax on sales made in any other state.

GARY; as long as they did not have that physical presence of some sort.

Page 4

Senate Finance and Taxation Committee

Bill/Resolution Number SB 2359

Hearing Date April 19, 2005

SEN. COOK: so lets say then that this company all of a sudden says now because of streamline we are going to collect and remit for all the other states that participate in streamline they could go to a central point and register to collect for all those states, they would then get compensated for sales tax, no, they would still get compensated the same for sales made to ND as they are right now, correct? **ANSWER:** yes

And what they got compensated by other states for their collection would be to what degree the other states and their law defined it or by the agreement? **ANSWER:** yes

ROLL CALL VOTE: 6-0-0

Sen. Cook and Rep. Drovdal to carry the bill.

April 19, 2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2359

That the House recede from its amendments as printed on page 829 of the Senate Journal and page 977 of the House Journal and that Senate Bill No. 2359 be amended as follows:

Page 1, line 3, after "a" insert "remote seller or"

Page 1, line 4, after "agreements" insert "; and to provide an effective date"

Page 1, line 21, after the period insert "A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes."

Page 2, line 3, after the period insert "A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes."

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years occurring after September 30, 2005."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

11 Number) SB 2359 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Sen. Cook	✓	✓	✓	✓	✓	✓	✓
Sen. Wlacher	✓	✓	✓	✓	✓	✓	✓
Sen. Evered	✓	✓	✓	✓	✓	✓	✓

Handwritten notes above table: 4-19-05, 4-18-05, 4-12-05, 4-11-05, YES, NO

For the House:

Rep. Drowdal	✓	✓	✓	✓	✓	✓	✓
Rep. Weiler	✓	✓	✓	✓	✓	✓	✓
Rep. Conrad	✓	✓	✓	✓	✓	✓	✓

Handwritten notes above table: 4-19-05, 4-18-05, 4-12-05, 4-11-05, YES, NO

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from) the (Senate/House) amendments on (SJ/HJ) page(s) _____ - _____

and place _____ on the Seventh order.

, adopt (further) amendments as follows, and place _____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: 4 / 19 / 05

CARRIER: Cook - Drowdal

LC NO. 50783 . 0103 of amendment

LC NO. _____ . _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2359: Your conference committee (Sens. Cook, Urlacher, Every and Reps. Drovdal, Weiler, Conrad) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 829, adopt amendments as follows, and place SB 2359 on the Seventh order:

That the House recede from its amendments as printed on page 829 of the Senate Journal and page 977 of the House Journal and that Senate Bill No. 2359 be amended as follows:

Page 1, line 3, after "a" insert "remote seller or"

Page 1, line 4, after "agreements" insert "; and to provide an effective date"

Page 1, line 21, after the period insert "A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes."

Page 2, line 3, after the period insert "A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes."

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years occurring after September 30, 2005."

Renumber accordingly

SB 2359 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

SB 2359

1 ARTICLE VI

2 MONETARY ALLOWANCES FOR NEW TECHNOLOGICAL MODELS FOR SALES

3 TAX COLLECTION

4
5 **Section 601: MONETARY ALLOWANCE UNDER MODEL 1**

- 6 A. Each member state shall provide a monetary allowance to a CSP in Model 1 in
7 accordance with the terms of the contract between the governing board and the CSP. The
8 details of the monetary allowance will be provided through the contract process. The
9 governing board shall require that such allowance be funded entirely from money
10 collected in Model 1.
- 11 B. The contract between the governing board and a CSP may base the monetary allowance
12 to a CSP on one or more of the following:
- 13 1. A base rate that applies to taxable transactions processed by the CSP.
 - 14 2. For a period not to exceed twenty-four months following a voluntary seller's
15 registration through the Agreement's central registration process, a percentage of tax
16 revenue generated for a member state by the voluntary seller for each member state
17 for which the seller does not have a requirement to register to collect the tax.

18
19 **Section 602: MONETARY ALLOWANCE FOR MODEL 2 SELLERS**

20 The member states initially anticipate that they will provide a monetary allowance to sellers
21 under Model 2 based on the following:

- 22 A. All sellers shall receive a base rate for a period not to exceed twenty-four months
23 following the commencement of participation by a seller. The base rate will be set after
24 the base rate has been established for Model 1. This allowance will be in addition to any
25 discount afforded by each member state at the time.
- 26 B. The member states anticipate a monetary allowance to a Model 2 Seller based on the
27 following:
- 28 1. For a period not to exceed twenty-four months following a voluntary seller's
29 registration through the Agreement's central registration process, a percentage of tax

1 revenue generated for a member state by the voluntary seller for each member state
2 for which the seller does not have a requirement to register to collect the tax.

- 3 2. Following the conclusion of the twenty-four month period, a seller will only be
4 entitled to a vendor discount afforded under each member state's law at the time the
5 base rate expires.
6

7 **Section 603: MONETARY ALLOWANCE FOR MODEL 3 SELLERS AND ALL OTHER**
8 **SELLERS THAT ARE NOT UNDER MODELS 1 OR 2**

9 The member states anticipate that they will provide a monetary allowance to sellers under Model
10 3 and to all other sellers that are not under Models 1 or 2 based on the following:

- 11 A. For a period not to exceed twenty-four months following a voluntary seller's registration
12 through the Agreement's central registration process, a percentage of tax revenue
13 generated for a member state by the voluntary seller for each member state for which the
14 seller does not have a requirement to register to collect the tax.
15 B. Vendor discounts afforded under each member state's law.

REAMLINED SALES & USE TAX

Proposed Amendments (for consideration at April 2005 Implementing States Meeting)

April 12, 2005

AMENDMENT	PURPOSE	RECOMMENDATION	PROGRAMMING COSTS	REVENUE IMPACT TO NORTH DAKOTA	LEGISLATION REQUIRED
1. Section 305: Local Rates & Boundary Changes (Steve Kranz, sponsor)	Allows vendor to use vendor address-based assignment system certified by state in place of state-provided system.	<u>Support amendment.</u>	Not applicable.	Not applicable.	Yes Amend: Section 57-39.4-06(7) Create: subsection (8)
2. Section 305: Local Rates & Boundary Changes Section 307: Database Requirements & Exceptions (Washington, sponsor)	Permit state to provide and maintain an address-based system for assigning tax jurisdictions rather than a zip-code system.	<u>Support amendment</u> – North Dakota has an address-based system in place.	North Dakota is currently working on possible development of zip-code based system. Approval of amendment would remove necessity to commit resources for zip-code based system.	Not applicable.	Yes Amend: Section 57-39.4-06(7) Section 57-39.4-08(3)
3. Section 309: Application of general sourcing rules and exclusions from the rules (Tennessee, sponsor)	Permit a state flexibility in changing the effective date of it sourcing rules until after December 31, 2006, which would affect the sourcing change that would be required by florists.	<u>Neutral</u> - North Dakota has always applied destination sourcing with exception of florist. Without amendment, florist will have to use destination sourcing for tax calculations when ND SSTP legislation becomes effective on 10/1/2005 or 1/1/2006.	Not applicable.	Unknown.	Yes Amend: Section 57-39.4-10(1) Create: subsection (2)(d)
4. Section 312: General sourcing term (Steve Kranz, sponsor)	Deletes term “delivered electronically” for multiple points of use (MPU) provisions.	<u>Do not support amendment.</u> Disagree with extending use of MPU to “tangible personal property”, opens door to future expansion to TPP, unknown revenue impact – requires more study, and initially agreed to MPU use for electronically delivered products based on sourcing concerns – sourcing not an issue	Not applicable.	Unknown	Yes Amend: Section 57-39.4(13)

1
By: Gary Anderson

		with delivery of TPP.			
5. Section 312: General sourcing definitions (Steve Kranz, sponsor)	Addresses seller's responsibilities if multiple points of use form are not provided by purchaser.	<u>Support amendment.</u>	Not applicable.	Unknown	Yes Create new subsection to: Section 57-39.4-13
6. Section 317: Administration of exemptions (Steve Kranz, sponsor)	Changes provision allowing state to issue identification number to be used by purchaser when claiming exemption from tax by not allowing.	<u>Do not support amendment.</u>	Not applicable.	Not applicable	Yes Amend: Section 57-39.4-18(e)
7. Section 317: Administration of exemption (Steve Kranz, sponsor)	Creates drop-shipment provision.	<u>Support amendment</u> – North Dakota has always applied in manner proposed by amendment.	Not applicable.	Not applicable.	Yes Create new subsection to: Section 57-39.4-18
8. Section 330: Transition Period (Ohio, sponsor)	Provide states switching from origin sourcing to destination sourcing the option to provide a transition period up to three years.	<u>Neutral</u> - North Dakota, as other states have had to initiate difficult changes (i.e., caps, etc), and when seeking support to retain exceptions, states like Ohio failed to provide. North Dakota has always applied destination sourcing.	Not applicable.	Not applicable.	Yes Create a new section to: Chapter 57-39.4
9. Article VI: Monetary allowance for new technological models for sales tax collections (North Dakota, sponsor)	Provides authority to state for determining the terms of the monetary allowance.	<u>Support amendment.</u>	Yes	Yes	Yes
10. Section 702: Approval of initial States (South Dakota, sponsor)	State whose statutes, rules, regulations, or other authorities are enacted but not yet in effect can still be counted for purpose of establishing the governing board.	<u>Support amendment</u> – North Dakota will have enacted the necessary statutes, rules and regulations although effective date may be after 9/30/05 or 12/31/05.	Not applicable.	Not applicable.	No
11. Section 807: Open Meetings	Provides governing board with authority to	<u>Support amendment.</u>	Not applicable.	Not applicable.	No

	have a closed session to discuss litigation to which a member state is a party.				
(South Dakota, sponsor)					
12. Section 811: Business And Taxpayer Advisory Council (Oklahoma, sponsor)	Modify governing board's intent by "recognizing" instead of creating advisory council.	<u>Support amendment.</u>	Not applicable.	Not applicable.	No
13. Library of Definitions in Appendix C, Part I (Steve Kranz, sponsor)	Delete the subsection referencing bundled taxable and nontaxable items from definition of "sales price".	<u>Neutral</u> – The work being completed by the SSTP committee on bundling is addressing this issue.	Not applicable.	Yes	Yes Remove: Section 57-39.2-01(8) (e)
14. Bundled Transaction Definition (Business community, sponsor)	Permits the use of "books and records" approach to calculating the sales tax on a bundled transaction that includes taxable and non-taxable items.	<u>Neutral</u> – North Dakota has permitted this approach with mobile telecommunications and recently extended this provision to telecommunication services.	Not applicable.	Yes.	Unsure
15. Library of Definitions in Appendix C, Part II (Steve Kranz, sponsor)	Adopt telecommunication related definitions.	<u>Support amendment</u>	Not applicable.	Not applicable.	Yes
16. Section 801: Entry into Agreement (Minnesota, sponsor)	Amends SSTP entry provisions by state that extends the date to comply with health care definitions to July 1, 2007.	<u>Neutral</u> – North Dakota is in compliance with health care definitions based on 2005 legislation.	Not applicable.	Not applicable.	Yes HB1043 (pending)

Streamlined Sales Tax Conforming States

	State	Population	Estimated Effective Date	Percent of Population
1	Indiana	6,080,485	1/1/2004	2.22
2	Iowa -	2,926,324	7/1/2004	1.07
3	Kansas -	2,688,418	7/1/2003	0.98
4	Kentucky	4,041,769	7/1/2004	1.47
5	Michigan	9,938,444	9/1/2004	3.62
6	Nebraska	1,711,263	1/1/2004	0.62
7	North Carolina	8,049,313	1/1/2004	2.93
8	Ohio	11,353,140	1/1/2005	<u>4.14</u>
9	Oklahoma	3,450,654	1/1/2003	1.26
10	South Dakota	754,844	1/1/2004	0.28
11	West Virginia ^{can't file in April}	1,808,344	1/1/2004	0.66
12	Wyoming	493,782	1/1/2004	0.18
13	Minnesota - ^{Medical products}	4,919,479	7/1/2005	<u>1.79</u> — 21.22
14	Tennessee ^{pending}	5,689,283	7/1/2005	<u>2.07</u>
15	Utah - ^{won't file yet}	2,233,169	7/1/2005	<u>0.87</u> — 24.10
16	Arkansas	2,673,400	1/1/2006	0.97
17	North Dakota	642,200	1/1/2006	0.23
18	Nevada	1,998,257	1/1/2006	0.73
19	Vermont	608,827	1/1/2006	0.22
Totals		72,061,395		26.25

pending??
delaying date
No

Kansas: effort to change implementing date until after Congress acts -

Wisconsin bill should pass early July - Implementing date Oct 1
N-J - possible conformance by end of March = July 1st 2005 3.06%

ARTICLE VII
AGREEMENT ORGANIZATION

Section 701: EFFECTIVE DATE

The Agreement shall become binding and take effect when at least ten states comprising at least twenty percent of the total population, as determined by the 2000 Federal census, of all states imposing a state sales tax have petitioned for membership and have either been found to be in compliance with the requirements of the Agreement pursuant to Section 805 or have been found to be an associate member pursuant to Section 704. The Agreement shall take effect on the first day of a calendar quarter at least sixty days after the tenth state is found in compliance or is found to be an associate member.
~~but cannot take effect prior to July 1, 2003.~~

Section 702: APPROVAL OF INITIAL STATES

Prior to the effective date of the Agreement, a state ~~that has adopted changes to its statutes, rules, regulations, or other authorities necessary to bring the state into compliance as provided in Section 805,~~ may seek membership by forwarding a petition for membership and certificate of compliance to the Co-Chairs of the Streamlined Sales Tax Implementing States. The certificate of compliance shall meet the requirements of Section 802. If some changes to a state's statutes, rules, regulations, or other authorities have been adopted, but are not yet in effect, the petition for membership shall include the date on which those changes shall be effective. A petitioning state shall also provide a copy of its petition for membership and certificate of compliance to each of the Streamlined Sales Tax Implementing States. A petitioning state shall also post a copy of its petition for membership and certificate of compliance on that state's web site.

Upon receipt of the requisite number of petitions as provided in Section 701, the Co-Chairs shall convene and preside over a meeting of the petitioning states for the purpose of determining if the petitioning states are in compliance with the Agreement. The meeting shall be convened as soon as practicable after receipt of the requisite number of petitions provided in Section 701, ~~but shall not be earlier than the date the relevant statutes, rules, regulations, or other authorities of the requisite number of petitioning states are effective.~~ An affirmative vote of three-fourths of the other petitioning states is

(1)

✓

necessary for a petitioning state to be found in compliance with the Agreement. A petitioning state shall not vote on its own petition for membership.

The Co-Chairs shall provide the public with an opportunity to comment prior to any vote on a state's petition for membership.

Section 703: STREAMLINED SALES TAX IMPLEMENTING STATES

A. From the time of ratification of this Agreement until the provisions of Section 701 have been met, the Streamlined Sales Tax Implementing States shall maintain responsibility for the Agreement, including the disposition of all proposed amendments to the Agreement. If the provisions of Section 701 have been met with the use of associate members as defined in Section 704, the Streamlined Sales Tax Implementing States shall be responsible for the disposition of all proposed amendments to and interpretations of the Agreement until such time as the provisions of Section 701 have been met without the use of associate members.

B. Amendments to the Agreement considered by the Streamlined Sales Tax Implementing States shall follow the provisions as set forth in Article IX, Section 901.

C. For a period of not less than six months nor longer than one year after the provisions of Section 701 are met without the use of associate members, the Streamlined Sales Tax Implementing States shall provide advice to the Governing Board of the Agreement and shall be consulted by the Governing Board before amending the Agreement.

Section 704: CONSIDERATION OF PETITIONS

A. A petitioning state that is found to be in compliance pursuant to Section 805 of the Agreement and the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are in effect shall be designated a Member State.

B. A petitioning state that is found to be in compliance pursuant to Section 805 of the Agreement and the changes to their statutes, rules, regulations or other authorities necessary to

bring them into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008, shall be designated an Associate Member. Provided the statutes, rules, regulations or other authorities remain in effect, the state shall automatically become a Member State upon the effective date of the conforming legislation.

C. A petitioning state that fails to receive an affirmative vote of three-fourths of the petitioning states as required under Section 702 may request Associate Membership.

If such a request is made, the Petitioning States may grant such membership by majority vote upon a finding that the state has made a good faith effort to comply has achieved substantial compliance with the terms of the Agreement taken as a whole, but not necessarily each provision as required by Section 805, measured qualitatively, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008. A state that is granted Associate Membership by this section shall be required to re-petition for full membership under the requirements of the Agreement.

Section 705: ASSOCIATE MEMBERSHIP

A. An associate member shall have all the rights and privileges of a member state except that an associate member may not vote on amendments to or interpretations of the Agreement when the provisions of Section 701 have been met without the use of associate members. Associate members may vote on amendments to or interpretations of the Agreement as an Implementing State under Section 703A.

B. An associate member shall retain such status until the Governing Board finds such state to be in compliance pursuant to Section 805 or December 31, 2007, whichever is earlier, without regard to whether the population requirement of Section 701 has been met. Any associate member that has not been found in compliance by December 31, 2007 shall forfeit its status as an associate member. No state may be an associate member after December 31, 2007. The Co-Chairs of the Streamlined Sales Tax Implementing States shall provide an associate member state with the reasons why such state is not in compliance with the Agreement.

C. Notwithstanding any provision of this Agreement to the contrary, a seller may, but is not required to collect sales or use tax on sales into an associate member state unless the seller is otherwise required to collect such taxes under applicable law. Notwithstanding the provisions of Section 401B, a seller that volunteers to collect tax in an associate member state is not required to collect tax in any other associate member state. An associate member shall be responsible for payment of ~~certified service provider~~ costs as provided in Article VI for those sellers that volunteer to collect tax in an associate member state. ~~and utilize the services of a certified service provider.~~

D. Neither the Governing Board nor a member state may share or grant access to an associate member state any seller information from the seller's registration pursuant to Section 401. Neither the Governing Board nor a member state may share or grant access to an associate member state any seller information from an audit conducted by the Governing Board or a member state on behalf of the Governing Board unless the associate member state is a party to the audit.

E. An associate member shall be responsible for the payment of the petition fee and the annual cost allocation as determined by the Streamlined Sales Tax Implementing States or Governing Board.

F. An associate member state shall provide amnesty pursuant to the provisions of Section 402, provided, the amnesty shall be in effect from the date the associate member status is attained until 12 months after the associate member state has been found to be in compliance with the Agreement.

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