

FISCAL NOTE
Requested by Legislative Council
12/26/2018

Amendment to: SB 2089

- 1 A. **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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

SB 2089 offers minor clean-up, consistency, and alignment to various statutes. There is no fiscal impact associated with these provisions.

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

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

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

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

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

Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 01/04/2019

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Name: Kathryn Strombeck

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Telephone: 701.328.3402

Date Prepared: 01/04/2019

2019 SENATE FINANCE AND TAXATION

SB 2089

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2089
1/7/2019
30453

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 57-39.4-35 of the North Dakota Century Code, relating to certified automated system software requirements; to amend and reenact sections 57-05-08, 57-06-06, 57-06-09, 57-06-12, and 57-33.2-07, subdivision d of subsection 26 of section 57-39.2-04, subsection 1 of section 57-39.2-12, subsections 6 and 7 of section 57-39.4-06, subsection 1 of section 57-39.4-23, subsection 3 of section 57-39.4-28, and subsection 7 of section 57-40.2-07 of the North Dakota Century Code, relating to reports from centrally assessed property companies, tentative assessments of centrally assessed property, the annual meeting of the state board of equalization, the definition of supplies used for bladder dysfunction, the filing of sales tax returns, the database of local taxing jurisdictions, notices of temporary exemption periods, the library of definitions to be used in the tax administration practices of the sales and use tax agreement, and the filing of use tax returns; and to provide an effective date.

Minutes:

1-2

Chairman Cook: Opened the hearing on SB 2089.

(1:20) Myles Vosberg: Testified in support of the bill. Mr. Vosberg read attachments 1-2.

(15:49) Myles Vosberg: Concluded the reading of the attachments and stood for questions.

(15:53) Senator Cook: Myles, we do tax diapers now?

Myles Vosberg: For children we do. But diapers that fall under that category of a bladder dysfunction are exempt. So what this amendment does is status quo. Under streamline because you need to tax all products in one category in the same manner and diapers in each category are both clothing. They created these separate subcategories so you could treat them differently like we do.

Senator Cook: So changing this definition is not going to change what diapers we tax?

Myles Vosberg: It does not.

(17:30) Senator Dotzenrod: On the bill on page 5 on lines 9-10 under this proposal of this bill is there no revision for an extension?

Myles Vosberg: I am going to let Linda address that question.

Linda Leadbetter: Thank you, Myles. For the record, I am Linda Leadbetter. State Supervisor of Assessments Director of the Property Tax Divisions. Senator Cook and members of the committee, the answer is yes the intention of our housing keeping on this is to remove that need for the extension. The timeline has changed from June to May with that extension. For our history, just as an understanding for our 2018 reports, 40 of our 65 pipeline companies requested the extension. So rather than having an extension being required in there, we just move all the deadlines to May 1 without having that additional requirement of an extension is what the goal of this amendment is.

Senator Dotzenrod: Linda, it sounds like you are saying they use the extension because the extension was in the code and you are saying if we take it out of the code they won't have the need for the extension anymore, is that correct?

Linda Leadbetter: Correct. What we are saying is rather than having it April 15 with extensions allow to May 1, we are moving all the reports to just be due on May 1.

Senator Dotzenrod: Doesn't it seem there may be circumstances going on in the preparation in getting these reports done that there may be something that occurred that requires an extension that causes a penalty even if they miss the new deadline?

Linda Leadbetter: Yes, that is addressed in the other section where we changed the date also to be April to May for the deadline. Under Page 5 Section 3 Lines 6-7 it changes it from having the penalty as being April 15 to being May 15. And it basically applies an additional 20% percentage to the assessed value of the property. If they do not meet the deadline again by June 1, they can apply an additional 10%.

Senator Dotzenrod: I don't know how important it is to the filers to have that extension available. I guess you are saying if everybody knows what the rules are then they should comply and if they don't comply there will be a 20% penalty?

Linda Leadbetter: The changes that were a part of this as far as the new requirements that were required to be sent out for the 2018 property tax, everything was moved ahead a month in the 2017 session. The deadlines had been June first with the extension in there, everything was moved back from that one month to May 1. The extension was just kept in there while everyone believed the reports were due April 15 but then we afforded them those extra 14 days to have it due and to us on May 1. So the way we see it is just a limit to the extension. We are not changing the deadline; we are just saying that with that majority of those pipeline companies that didn't pull all the other companies but just for reference to know that an extension existed. There were 40 of the 65 companies that chose to request a new extension. We are just eliminating that requirement for them to allow them just to accept May 1 as their deadline.

Senator Cook: Senator Dotzenrod, if you recall, there is a series of deadlines to be met and we have always had problems with assessed properties and school districts were always complaining that by the time we did their budget, they had not yet received the value of the assessed property under the district so they moved it up a month and now it's important that when we have the deadline, that it is met because beginning with that word "deadline", is another deadline and the word can't start unless the first deadline is met. And you are going to see more bills dealing with the deadlines. A deadline means a deadline. You better meet them or you are going to be penalized. This goes to everybody involved in the game.

Senator Patten: I am just going to clarify, the extension that was granted previously is going to be got rid of?

Linda Leadbetter: Yes, it is just moving everyone to May 1 and not moving a deadline back, we are just putting that final deadline as one process so we are not requiring them to send a request that would be another two weeks later.

Senator Cook: Committee members, we might wait until all the bills are introduced to see how many bills there are dealing with these deadlines and hear them all before we pass anything else. Thanks, Linda.

Senator Cook: Any other questions? Hearing none, are there any further testimonies in support on SB 2089? Hearing none, are there any opposing testimonies to SB 2089? With that we will close the hearing on Senate Bill 2089.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2089
1/23/2019
Job # 31302

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 57-39.4-35 of the North Dakota Century Code, relating to certified automated system software requirements; to amend and reenact sections 57-05-08, 57-06-06, 57-06-09, 57-06-12, and 57-33.2-07, subdivision d of subsection 26 of section 57-39.2-04, subsection 1 of section 57-39.2-12, subsections 6 and 7 of section 57-39.4-06, subsection 1 of section 57-39.4-23, subsection 3 of section 57-39.4-28, and subsection 7 of section 57-40.2-07 of the North Dakota Century Code, relating to reports from centrally assessed property companies, tentative assessments of centrally assessed property, the annual meeting of the state board of equalization, the definition of supplies used for bladder dysfunction, the filing of sales tax returns, the database of local taxing jurisdictions, notices of temporary exemption periods, the library of definitions to be used in the tax administration practices of the sales and use tax agreement, and the filing of use tax returns; and to provide an effective date.

Minutes:

Attachments: 1

Chairman Cook: We will call the Senate Finance and Tax Committee to order. Handed out proposed amendments. See attachment #1. This is the tax department clean up language. It basically starts by doing a few things. First, centrally assessed property; right now they have dates in April and they are able to ask for an extension to May 1. This takes away the ability to ask for that extension and makes the date certain for May 1. You will see language throughout the bill in the first six sections on the bill that will allow that. You will see language that is manner prescribed reporting and in a manner prescribed by the tax commissioner. That is just to give him the flexibility to set electronic reports. That is it, other than some clarification and improved definitions. Then we go to subsection 6, page 6. That is the section dealing with bladder dysfunction. Chapter 57-39.204 is what we are replacing or changing here. That lists all the products that are exempt from sales tax. I urge all of you to read that chapter. Subsection 26 of that, deals with the durable medical equipment. Subsection D of subsection 26, deals with bladder dysfunction. You will see on subsection 2, that is where adult diapers are added. They are exempt today. We had a discussion at the streamline governing board as far as the definitions of adult diapers. It is clear whether a state taxes it or not. That is their decision, but the definition of what they tax is the same. For that definition you will see A B and C. For purposes of this paragraph, it tells you what an adult diaper, children's diaper, and what diaper means. The rest is just clean up. The streamline sales tax

agreement is quite an agreement. We put the complete agreement in code. So, when there is a change in the agreement whether it affects us or not, we have to change our language. The agreement is rules that every state follows. We decide what we are going to tax but, if we are going to tax candy, it is the same in every state. The only other amendments that comes with what's in front of you, is add durable diapers. Are we clear?

Senator Unruh: I would move amendment 19.8041.01001 to SB 2089.

Senator Meyer: Seconded.

Chairman Cook: Any discussion?

A voice vote was taken. All were in favor. Amendment was adopted.

Senator Unruh: Moved a Do Pass on SB 2089 as amended.

Senator Meyer: Seconded.

Chairman Cook: Any discussion?

A roll call vote was taken. 5 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Cook will carry the bill.

January 23, 2019

8/2
135

PROPOSED AMENDMENTS TO SENATE BILL NO. 2089

Page 1, line 4, after the second comma insert "section 57-39.4-04,"

Page 1, line 5, after the first comma insert "section 57-39.4-19,"

Page 1, line 5, after the third comma insert "subdivision d of subsection 12 of section 57-40.2-04,"

Page 1, line 9, after the second comma insert "seller registration,"

Page 1, line 9, after the third comma insert "uniform tax returns,"

Page 7, after line 30, insert:

"SECTION 8. AMENDMENT. Section 57-39.4-04 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-04. (303) Seller registration.

Each member state shall participate in an online sales and use tax registration system in cooperation with the other member states. Under this system:

1. A seller registering under the agreement ~~shall be registered~~ may register in ~~each one or more of the member states utilizing the central registration system provided in article IV of the agreement.~~
2. A ~~model 2, model 3, or model 4 seller may elect to be registered in one or more states as a seller which anticipates making no sales into the state or states if it has not had sales into the state or states for the preceding twelve months. This election does not relieve the seller of its agreement under section 401(B) to collect taxes on all sales into the states or its liability for remitting to the proper states any taxes collected~~ certified service provider may require a seller registering under the agreement to register in all of the full-member states as a condition of receiving certified service provider services.
3. The member states agree not to require the payment of any registration fees or other charges for a seller ~~to register~~ registering through the central registration system in a state in which the seller has no legal requirement to register.
4. A written signature from the seller is not required.
5. An agent may register a seller under uniform procedures adopted by the member states.
6. A seller may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.

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7. Nothing in this section shall be construed to relieve a seller of any legal obligation it may have under a state's laws to register in that state or its obligation to collect and remit taxes for at least thirty-six months in a state and meet all other requirements for amnesty set out in section 402 of the agreement in order to be eligible for amnesty in the state.
 8. Whenever a state joins the agreement, sellers already registered under the agreement shall be ~~registered in the new~~ notified by the governing board and the sellers may elect to also be registered in the new state as follows:
 - a. ~~Model 1 sellers will be automatically registered in such state.~~
 - b. ~~Model 2, model 3, and model 4 sellers will be automatically registered in the new state but may elect to be registered as a seller which anticipates making no sales into the new state.~~
 9. ~~Upon registration, the~~ The governing board shall ~~provide to the seller~~ make information available regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state. ~~Member states~~ A member state may provide information to sellers concerning other tax return filing options in that state.
 10. The governing board shall cause the system for registering under the agreement to include a feature that allows sellers registered under the agreement to update relevant registration data in the system and have such updated data provided to all ~~member~~ affected states utilizing the system. The governing board shall establish conditions and procedures to allow states which are not members of the agreement to participate in the registration system."

Page 9, after line 8, insert:

"SECTION 10. AMENDMENT. Section 57-39.4-19 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-19. (318) Uniform tax returns.

Each member state shall:

1. Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.
2.
 - a. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
 - b. When the due date for a return falls on a Saturday or Sunday or legal holiday in the subject member state, the return shall be due on the next succeeding business day. If the return is filed in conjunction with a remittance and the remittance cannot be made under subdivision b of subsection 5 of section 57-39.4-20, the return shall be accepted as timely filed on the same day as the remittance under that subsection.
3. Make available to all sellers, whether or not registered under the agreement, except sellers of products qualifying for exclusion from the

provisions of section 57-39.4-09 of this agreement, a simplified return that is filed electronically as follows:

- a. The simplified electronic return hereinafter SER shall be in a form approved by the governing board and shall contain only those fields approved by the governing board. The SER shall contain two parts. Part 1 shall contain information relating to remittances and allocations and part 2 shall contain information relating to exempt sales.
- b. Each member state must notify the governing board if it requires the submission of the part 2 information provided no state may require the submission of part 2 information from a model 4 seller which has no legal requirement to register in the state.
- c. Returns shall be required as follows:
 - (1) Certified service providers must file an SER in all member states in which the model 1 seller is registered under the agreement, on behalf of model 1 sellers. Certified service providers, on behalf of these sellers, shall file the audit reports provided for in article V of the rules and procedures of the agreement for the states, and in addition, shall be required to file part 1 of the SER each month for each member state in which the model 1 seller is registered under the agreement. A state shall allow a model 1 seller to file both part 1 and part 2 of the SER. A model 1 seller which chooses to file both part 1 and part 2 of the SER shall still be required to file the audit reports provided for in article V of the rules and procedures of the agreement.
 - (2) Model 2 and model 3 sellers must file an SER in all member states ~~other than states for which they have indicated that they anticipate making no sales in which they are registered under the agreement~~. These sellers shall file part 1 of the SER every month for all states in which they ~~anticipate making sales are registered under the agreement~~. These sellers ~~need not file part 2 information until January 1, 2012. After this date, they shall have the following options for meeting their obligation to furnish part 2 information:~~
 - (a) File part 2 of the SER together with part 1 of the SER every month; or
 - (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. The sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.
 - (3) Every member state shall allow model 4 sellers to file an SER. The sellers shall file part 1 of the SER every month unless a state allows less frequent filing. Model 4 sellers which have a

legal requirement to register in the state shall have the following options for meeting their obligation to furnish part 2 information:

- (a) File part 2 of the SER together with part 1 of the SER; or
- (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

Model 4 sellers which elect not to file an SER shall file returns in the form under schedules afforded to sellers not registered under the agreement according to the requirements of each member state.

- (4) ~~No later than January 1, 2013, every~~ Every member state shall allow sellers not registered under the agreement that are registered in the state to file an SER. These sellers shall file part 1 of the SER every month unless a state allows less frequent filing and shall have the following options for meeting their obligation to furnish part 2 information:

- (a) File part 2 of the SER together with part 1 of the SER; or
- (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

- d. A state which requires the submission of part 2 information under paragraph 2 may provide an exemption from this requirement to a seller under terms and conditions set out by the state.

- e. A state may require a seller which elects to file an SER to give at least three months' notice of the seller's intent to discontinue filing an SER.

- 4. ~~Not require the filing of a return from a seller registered under the agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under the agreement. A seller shall lose this exemption upon making any taxable sales into the state and shall file a return in the month following the sale. A state may, but is not required to, allow a seller to regain such filing exemption upon such terms and conditions as the state may impose.~~

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5. Adopt web services as the standardized transmission process that allows for receipt of uniform tax returns and other formatted information as approved by the governing board. The process must provide for the filing of separate returns for multiple legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a certified service provider, tax preparer, or any other authorized person to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.
- 6.5. Give notice to a seller registered under this agreement which has no legal requirement to register in the state, of a failure to file a required return and a minimum of thirty days to file thereafter prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return provided a member state may establish a liability amount for taxes based solely on the seller's failure to timely file a return if such seller has a history of nonfiling or late filing.
- 7.6. Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently."

Page 11, after line 5, insert:

"SECTION 14. AMENDMENT. Subdivision d of subsection 12 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- d. "Supplies for ostomy care or bladder dysfunction" includes:
- (1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
 - (2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinence pads and pants, adult diapers, and other items used for the care and management of bladder dysfunction. For the purposes of this paragraph:
 - (a) "Adult diapers" means diapers other than children's diapers.
 - (b) "Children's diapers" means diapers marketed to be worn by children.
 - (c) "Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements."

Page 11, line 27, replace "12" with "15"

Renumber accordingly

Date: _____
Roll Call Vote #: _____

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2089

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 19.8041.01001

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 Unruh Seconded By Meyer

[illegible]

Total (Yes) _____ No _____

Absent

Floor Assignment

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

Date: 1-23-19
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO.

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 Unruh Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod		
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 5 No 0

Absent 1- Dotzenrod

Floor Assignment COOK

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

REPORT OF STANDING COMMITTEE

SB 2089: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2089 was placed on the Sixth order on the calendar.

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1. A seller registering under the agreement ~~shall be registered~~ may register in each one or more of the member states utilizing the central registration system provided in article IV of the agreement.
2. A ~~model 2, model 3, or model 4 seller~~ may elect to be registered in one or more states as a seller which anticipates making no sales into the state or states if it has not had sales into the state or states for the preceding twelve months. This election does not relieve the seller of its agreement under section 401(B) to collect taxes on all sales into the states or its liability for remitting to the proper states any taxes collected certified service provider may require a seller registering under the agreement to register in all of the full-member states as a condition of receiving certified service provider services.
3. The member states agree not to require the payment of any registration fees or other charges for a seller ~~to register~~ registering through the central registration system in a state in which the seller has no legal requirement to register.
4. A written signature from the seller is not required.
5. An agent may register a seller under uniform procedures adopted by the member states.
6. A seller may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.
7. Nothing in this section shall be construed to relieve a seller of any legal obligation it may have under a state's laws to register in that state or its obligation to collect and remit taxes for at least thirty-six months in a state and meet all other requirements for amnesty set out in section 402 of the agreement in order to be eligible for amnesty in the state.

8. Whenever a state joins the agreement, sellers already registered under the agreement shall be registered in the new notified by the governing board and the sellers may elect to also be registered in the new state as follows:
 - a. ~~Model 1 sellers will be automatically registered in such state.~~
 - b. ~~Model 2, model 3, and model 4 sellers will be automatically registered in the new state but may elect to be registered as a seller which anticipates making no sales into the new state.~~
9. ~~Upon registration, the~~ The governing board shall provide to the ~~seller~~ make information available regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state. ~~Member states~~ A member state may provide information to sellers concerning other tax return filing options in that state.
10. The governing board shall cause the system for registering under the agreement to include a feature that allows sellers registered under the agreement to update relevant registration data in the system and have such updated data provided to all ~~member~~ affected states utilizing the system. The governing board shall establish conditions and procedures to allow states which are not members of the agreement to participate in the registration system."

Page 9, after line 8, insert:

"SECTION 10. AMENDMENT. Section 57-39.4-19 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-19. (318) Uniform tax returns.

Each member state shall:

1. Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.
2.
 - a. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
 - b. When the due date for a return falls on a Saturday or Sunday or legal holiday in the subject member state, the return shall be due on the next succeeding business day. If the return is filed in conjunction with a remittance and the remittance cannot be made under subdivision b of subsection 5 of section 57-39.4-20, the return shall be accepted as timely filed on the same day as the remittance under that subsection.
3. Make available to all sellers, whether or not registered under the agreement, except sellers of products qualifying for exclusion from the provisions of section 57-39.4-09 of this agreement, a simplified return that is filed electronically as follows:
 - a. The simplified electronic return hereinafter SER shall be in a form approved by the governing board and shall contain only those fields approved by the governing board. The SER shall contain two parts. Part 1 shall contain information relating to remittances and allocations and part 2 shall contain information relating to exempt sales.

- b. Each member state must notify the governing board if it requires the submission of the part 2 information provided no state may require the submission of part 2 information from a model 4 seller which has no legal requirement to register in the state.
- c. Returns shall be required as follows:
 - (1) Certified service providers must file an SER in all member states in which the model 1 seller is registered under the agreement, on behalf of model 1 sellers. Certified service providers, on behalf of these sellers, shall file the audit reports provided for in article V of the rules and procedures of the agreement for the states, and in addition, shall be required to file part 1 of the SER each month for each member state in which the model 1 seller is registered under the agreement. A state shall allow a model 1 seller to file both part 1 and part 2 of the SER. A model 1 seller which chooses to file both part 1 and part 2 of the SER shall still be required to file the audit reports provided for in article V of the rules and procedures of the agreement.
 - (2) Model 2 and model 3 sellers must file an SER in all member states ~~other than states for which they have indicated that they anticipate making no sales~~ in which they are registered under the agreement. These sellers shall file part 1 of the SER every month for all states in which they ~~anticipate making sales~~ are registered under the agreement. These sellers need not file ~~part 2 information until January 1, 2012. After this date, they shall have the following options for meeting their obligation to furnish part 2 information:~~
 - (a) File part 2 of the SER together with part 1 of the SER every month; or
 - (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. The sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.
 - (3) Every member state shall allow model 4 sellers to file an SER. The sellers shall file part 1 of the SER every month unless a state allows less frequent filing. Model 4 sellers which have a legal requirement to register in the state shall have the following options for meeting their obligation to furnish part 2 information:
 - (a) File part 2 of the SER together with part 1 of the SER; or
 - (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it

will require the submission of the part 2 information under subdivision b.

Model 4 sellers which elect not to file an SER shall file returns in the form under schedules afforded to sellers not registered under the agreement according to the requirements of each member state.

- (4) ~~No later than January 1, 2013, every~~ Every member state shall allow sellers not registered under the agreement that are registered in the state to file an SER. These sellers shall file part 1 of the SER every month unless a state allows less frequent filing and shall have the following options for meeting their obligation to furnish part 2 information:

- (a) File part 2 of the SER together with part 1 of the SER; or
- (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

- d. A state which requires the submission of part 2 information under paragraph 2 may provide an exemption from this requirement to a seller under terms and conditions set out by the state.
- e. A state may require a seller which elects to file an SER to give at least three months' notice of the seller's intent to discontinue filing an SER.

4. ~~Not require the filing of a return from a seller registered under the agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under the agreement. A seller shall lose this exemption upon making any taxable sales into the state and shall file a return in the month following the sale. A state may, but is not required to, allow a seller to regain such filing exemption upon such terms and conditions as the state may impose.~~

5. Adopt web services as the standardized transmission process that allows for receipt of uniform tax returns and other formatted information as approved by the governing board. The process must provide for the filing of separate returns for multiple legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a certified service provider, tax preparer, or any other authorized person to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.

- 6-5. Give notice to a seller registered under this agreement which has no legal requirement to register in the state, of a failure to file a required return and a minimum of thirty days to file thereafter prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return provided a member state may establish a liability amount for

taxes based solely on the seller's failure to timely file a return if such seller has a history of nonfiling or late filing.

- ~~7-6.~~ Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently."

Page 11, after line 5, insert:

"SECTION 14. AMENDMENT. Subdivision d of subsection 12 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- d. "Supplies for ostomy care or bladder dysfunction" includes:
- (1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
 - (2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinence pads and pants, adult diapers, and other items used for the care and management of bladder dysfunction. For the purposes of this paragraph:
 - (a) "Adult diapers" means diapers other than children's diapers.
 - (b) "Children's diapers" means diapers marketed to be worn by children.
 - (c) "Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements."

Page 11, line 27, replace "12" with "15"

Renumber accordingly

2019 HOUSE FINANCE AND TAXATION

SB 2089

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2089
2/27/2019
32914

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to certified automated system software requirements; relating to reports from centrally assessed property companies, tentative assessments of centrally assessed property, the annual meeting of the state board of equalization, the definition of supplies used for bladder dysfunction, the filing of sales tax returns, seller registration, the database of local taxing jurisdictions, uniform tax returns, notices of temporary exemption periods, the library of definitions to be used in the tax administration practices of the sales and use tax agreement, and the filing of use tax returns.

Minutes:

Attachments 1-2

Chairman Headland: Opened hearing on SB 2089.

Myles Vosberg, Director of Tax Administration Division for the Office of State Tax Commissioner: Distributed testimony and proposed amendments, see attachments 1 and 2. Ended testimony at 15:40.

Representative Ertelt: In the section for the adult diapers, are there other products not taxed that are medically necessary?

Myles Vosberg: Prescription drugs, durable medical equipment, prosthetic devices; there are some other identified medical related items that are not subject to tax.

Representative Ertelt: But not all medical?

Myles Vosberg: They would have to be within those definitions. This issue came up because in North Dakota clothing is taxable and under the streamline agreement diapers are defined as clothing. We were taxing some clothing while exempting other clothing so these definitions break out those subcategories that allow us to continue to exempt those clothing items for the medical issue.

Representative Ertelt: With the defined product categories, do you have other examples of items that are either going to be included in the taxable categories or exempted from taxation?

Myles Vosberg: This really won't change the taxability of any products. This is clarifying and defining that we have product categories and we will certify those product categories someone requests. Food is a perfect example of a category of products and subcategories because we have food and food ingredients which in general are exempt from tax. We have subcategories of soft drinks, candy, and prepared food that are all subject to tax.

Representative Steiner: Is there anything significant in here? It mostly looks like it has adjustments and housekeeping.

Myles Vosberg: Really nothing, it's just refinements, clarifications, and things that were tweaked within the streamline agreement that because we adopted the language of the agreement we want to keep up and make sure we have identical language.

Representative Ertelt: Will the tax department be making that determination of which products fall into that product category and it's not the streamline sales tax body that decides which products are in those categories within each state?

Myles Vosberg: That is correct. They would come directly to us to see if it falls into a category or not.

Chairman Headland: Is there further testimony in support of SB 2089? Is there opposition? Seeing none we will close the hearing. What are the committee's wishes?

Vice Chairman Grueneich: **MADE A MOTION TO ADOPT THE AMENDMENT proposed by Myles Vosberg in testimony. See attachment 2.**

Representative Hatlestad: SECONDED

VOICE VOTE: MOTION CARRIED

Chairman Headland: We have amended SB 2089 before us.

Representative Steiner: MADE A MOTION FOR A DO PASS AS AMENDED

Representative Hatlestad: SECONDED

ROLL CALL VOTE: 11 YES 0 NO 3 ABSENT

MOTION CARRIED

Representative Hatlestad will carry this bill.

DP 2/27/19

19.8041.02001
Title.03000

Adopted by the House Finance and Taxation
Committee

February 27, 2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2089

Page 1, line 3, after the first comma insert "57-06-05,"

Page 3, after line 10, insert:

"SECTION 2. AMENDMENT. Section 57-06-05 of the North Dakota Century Code is amended and reenacted as follows:

57-06-05. Annual assessment.

The state board of equalization, at its annual meeting in ~~August~~ July, shall assess the franchises and all operative property of power, gas, pipeline, and other companies, covered by this chapter, with reference to the value thereof on the first day of January of that year."

Page 17, line 24, after the fourth comma insert "5,"

Page 17, line 24, replace "5" with "6"

Page 17, line 26, replace "7" with "8"

Page 17, line 26, replace "15" with "16"

Renumber accordingly

Date: 2-27-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2089

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 19.8041.02001

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. Grueneich Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote = Motion carried

Date: 2-27-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2089

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 19.8041.02001

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. Steiner Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	X		Representative Eidson	X	
Vice Chairman Grueneich	X		Representative Mitskog	A	
Representative Blum	X				
Representative Dockter	A				
Representative Ertelt	X				
Representative Fisher	X				
Representative Hatlestad	X				
Representative Kading	X				
Representative Koppelman	A				
Representative Steiner	X				
Representative Toman	X				
Representative Trottier	X				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE

SB 2089, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2089 was placed on the Sixth order on the calendar.

Page 1, line 3, after the first comma insert "57-06-05,"

Page 3, after line 10, insert:

"SECTION 2. AMENDMENT. Section 57-06-05 of the North Dakota Century Code is amended and reenacted as follows:

57-06-05. Annual assessment.

The state board of equalization, at its annual meeting in ~~August~~July, shall assess the franchises and all operative property of power, gas, pipeline, and other companies, covered by this chapter, with reference to the value thereof on the first day of January of that year."

Page 17, line 24, after the fourth comma insert "5,"

Page 17, line 24, replace "5" with "6"

Page 17, line 26, replace "7" with "8"

Page 17, line 26, replace "15" with "16"

Renumber accordingly

2019 TESTIMONY

SB 2089



Testimony of the Office of State Tax Commissioner

Before the

Senate Finance and Taxation Committee

Chairman Dwight Cook

Senate Bill 2089

January 7, 2019

Chairman Cook, members of the Senate Finance and Taxation Committee, my name is Myles Vosberg, Director of the Tax Administration Division for the Office of State Tax Commissioner. I am here today to provide information regarding Senate Bill 2089. Representatives of the Property Tax Division are also present and available to respond to questions you may have on property tax sections of the bill. Senate Bill 2089 contains amendments proposed by the Tax Commissioner regarding property taxes and sales and use taxes. Near the end of my testimony, I will also offer an amendment to this version of Senate Bill 2089. The proposed amendment will adopt a change to the Streamlined Sales and Use Tax Agreement that was approved by the SST Governing Board after the December 6 deadline for executive agencies to file bills with the Legislative Council.

Property Tax

The Property Tax Division of the Office of State Tax Commissioner collects and reviews reports of companies taxed under N.D.C.C. Chapters 57-05, 57-06, and 57-33.2, which include centrally assessed property and electric taxes. Property tax changes proposed in this legislation address deadlines required to meet the budget hearings and estimated tax notice provided in N.D.C.C. §57-15-02.2. The bill is intended to create consistency in the deadlines of the company reporting.

Section 1. Section 1 amends N.D.C.C. §57-05-08, reports of railroad companies. Page 1, line 18, amends the annual report deadline from April 1 to May 1. Page 1, lines 19 and 20, amend the language "forms" to "the manner prescribed by the tax commissioner" to address current electronic filing of reports.

Other changes in Section 1 are for clarification and improved definitions.

Section 2. Section 2 amends N.D.C.C. §57-06-06, reports of centrally assessed companies. Page 3, line 11, amends the annual report deadline from April 15 to May 1. Page 3, lines 13 and 14, amend the language “forms” to “the manner prescribed by the tax commissioner” to address current electronic filing of reports.

Other changes in Section 2 are for clarification and improved definitions.

Section 3. Section 3 amends N.D.C.C. §57-06-09, the month in which a penalty will be applied for failure to furnish a report. On page 5, line 7, the date is changed from April 15 to May 1. Lines 8 through 10 repeal the application for extension to May 1. Deadlines that are currently prior to May 1 are proposed amendments that are changed to May 1 in SB 2089.

Section 4. Section 4 amends N.D.C.C. §57-06-12, notice of assessments. Page 5, lines 19 and 20, amend the language “by mail” to “in a manner determined by the tax commissioner” to address electronic sharing of notices.

Section 5. Section 5 amends N.D.C.C. §57-33.2-07, reports of electric companies. Page 5, lines 30 and 31, amend the language “on a form” to “the manner prescribed by the tax commissioner” to address current electronic filing of reports. Page 6, line 2, amends the date of the state board of equalization from August to July to concur with the date provided for the state board of equalization meeting to review centrally assessed properties in N.D.C.C. §57-06-12.

Other changes in Section 5 are for clarification and improved definitions.

Sales and Use Tax

The Tax Administration Division of the Office of State Tax Commissioner administers the state, city, and county sales and use taxes. The sales tax changes proposed in this legislation address monthly filing requirements and amendments to the Streamlined Sales and Use Tax Agreement adopted by the SST Governing Board during the current biennium.

Sections 7 and 12. Current sales and use tax laws require sales tax permit holders with taxable sales or purchases in excess of \$333,000 in the previous calendar year to file sales tax returns monthly. Section 7 of Senate Bill 2089 authorizes the Tax Commissioner to waive this monthly filing and remittance requirement for good cause. An example of “good cause” might be a seasonal retailer that makes sales greater than \$333,000 in North Dakota at one event and has no other business activity in the state until the following year. Another example is a

contractor that normally pays tax to its suppliers, but for one specific job is required to report and remit use tax on purchases greater than \$333,000. The following year, this contractor may have no taxable activity to report, but under the current law would be required to file twelve monthly returns. Section 12 of the bill is the same change as Section 7 of the bill, but it is in Chapter 57-40.2, the use tax law.

Sections 6, 8, 9, 10, and 11. 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.

North Dakota's approach to adopting the provisions of the SUTA into our law has been to adopt the entire agreement by reference in Section 1 of N.D.C.C. Chapter 57-39.4 except for Articles III and V of the Agreement. The detailed language of Articles III and V of the agreement have been adopted in detail in the remaining sections of Chapter 57-39.4.

Sections 6, 8, 9, 10 and 11 of Senate Bill 2089 are proposed changes to the sales tax laws that reflect amendments to the Streamlined Sales and Use Tax Agreement that have been adopted by the SST Governing Board.

Section 6 - Current sales tax law contains an exemption for purchases of ostomy care and bladder dysfunction supplies, which includes incontinent pads and pants worn by adults. Based on this exemption in subsection 26 of N.D.C.C. §57-39.2-04, sales of diapers and similar clothing products used by adults with bladder dysfunctions are exempt from sales tax. However, diapers for children, which are also a clothing product, are taxable. Diapers and the subcategories of adult diapers and children's diapers were recently defined in the SUTA in order to allow member states to have a different application of tax to adult diapers and children's diapers. Section 6 codifies the SST definition of diapers to maintain North Dakota's current tax exemption for bladder dysfunction supplies.

Section 8 – One requirement of SST member states is to make available to Certified Service Providers and retailers an electronic data base that identifies all state and local tax rates within the state and a separate database of five and nine digit zip codes located within each local taxing jurisdiction. The purpose of these databases is to identify the correct combined state and local sales tax rate based on deliveries to a specific nine

digit zip code address. The amendment in Section 8 is simple clean-up language that clarifies the tax rate and zip code database information applies to all taxable transactions.

Section 9 – Section 9 of the bill amends a member state’s requirement to provide advance notice regarding sales tax holidays. North Dakota law does not authorize sales tax holidays, and this change will not impact our state. The purpose of this amendment is to reflect the current terms of the SUTA that have been adopted into Chapter 57-39.4.

Sections 10 and 11 – The SST Agreement defines categories of products to help make sales tax laws more uniform between states and to simplify collection responsibilities for retailers. States have complete discretion to tax or exempt any specific category of products, however, all products within a defined category or subcategory must be taxed or exempted in the same manner. Examples of defined categories and subcategories of products are clothing, durable medical equipment, prewritten computer software and prepared food. Section 10 of the bill codifies the portion of the SST Agreement that requires all products within a defined product category to be taxed or exempted. Section 11 of the bill defines “Product Category” and identifies how member states “certify a product category”. By certifying a product category, a member state is formally acknowledging that specific products fall within a product category and that the state either taxes or exempts that category of products.

Proposed Amendment to Senate Bill 2089. One of the simplifications that SST member states provide to the retail community is a central registration system. The central registration system is a computer program developed and maintained by the SST Governing Board. The certified system allows a retailer to register to collect sales and use taxes for all member states through a single online registration process rather than by applying to each individual member state separately. Prior to December, 2018, the SUTA required retailers registering through the central registration system to register and collect tax in every member state. A retailer that did not make any sales into an individual member state was not required to file returns in that state; however, the retailer was required to collect and remit state and local tax on every sale made into each member state regardless of the volume of sales in each state.

After the *Wayfair vs. South Dakota* Supreme Court Decision in June, 2018, member states began imposing requirements for remote retailers that have no physical presence in their states to collect the states’ sales and use taxes after retailers reach a certain dollar amount or volume of sales in the state. North Dakota approved legislation in 2017 that now requires remote retailers to register and collect state and local sales taxes if more than \$100,000 of sales or two hundred separate sales are delivered into North Dakota by a remote retailer.

After implementing registration and collection requirements, SST member states found that retailers were reluctant to register through the centralized registration system because the SUTA would require tax collection in all member states even though the retailer may not be legally required to collect sales tax in states where they did not meet the collection threshold. In an effort to encourage retailers to register to collect tax and to register through the central registration system, the SST Governing Board adopted an amendment to the agreement that allows retailers to select which member states where the retailer wants to register.

Section 8 of the proposed amendment adopts into Chapter 57-39.4 the SUTA amendment that allows retailers to elect to register in less than all of the SST member states. Section 10 of the amendment complements Section 8 and clarifies that retailers or their Certified Service Providers must file sales and use tax returns for states in which the retailers are registered under the agreement (through the central registration system).

Section 13. Sections 1 through 5 of the bill, which amend property tax law, will be effective for the 2019 tax year.

Section 14. Sections 7 and 12 (Section 14 if the proposed amendment is adopted) of the bill, which amend the requirements for filing monthly sales tax returns, will be effective for returns filed after July 31, 2019.

Conclusion

The purpose of Sections 1 through 5, the property tax portion of Senate Bill 2089, is to create consistent deadlines for filing reports of centrally assessed and electric tax companies, without the need to request or provide an extension, and to provide appropriate language to address reporting requirements.

The remaining Sections of Senate Bill 2089 and the proposed amendment change the sales and use tax laws to authorize the Tax Commissioner to waive the monthly sales and use tax return filing requirement for good cause and to adopt changes in the Streamlined Sales and Use Tax Agreement adopted by the Governing Board since the 2017 Legislative Session.

The amendments of Senate Bill 2089 have no fiscal impact. The Office of the State Tax Commissioner respectfully requests that the Finance and Taxation Committee give Senate Bill 2089 and the proposed amendment favorable consideration. Thank you.

Prepared by the Office
of State Tax Commissioner for
Senate Finance & Taxation Committee
January 7, 2019
19.8041.01000

PROPOSED AMENDMENTS TO SENATE BILL NO. 2089

Page 1, line 4, after the second comma, insert "subsections 1, 2, 3, 8, 9, and 10 of section 57-39.4-04,"

Page 1, line 5, after the first comma, insert "section 57-39.4-19,"

Page 1, line 9, after the second comma, insert "seller registration,"

Page 1, line 9, after the third comma, insert "uniform tax returns,"

Page 7, after line 30, insert:

"SECTION 8. AMENDMENT. Subsections 1, 2, 3, 8, 9, and 10 of section 57-39.4-04 of the North Dakota Century Code are amended and reenacted as follows:

1. A seller registering under the agreement shall ~~be registered~~ may register in each one or more of the member states utilizing the central registration system provided in article IV of the agreement.
2. A ~~model 2, model 3, or model 4 seller may elect to be registered in one or more states as a seller which anticipates making no sales into the state or states if it has not had sales into the state or states for the preceding twelve months. This election does not relieve the seller of its agreement under section 401(B) to collect taxes on all sales into the states or its liability for remitting to the proper states any taxes collected~~ certified service provider may require a seller registering under the agreement, as a condition of receiving certified service provider services, to register in all of the full member states.
3. The member states agree not to require the payment of any registration fees or other charges for a seller ~~to register~~ registering through the central registration system in a state in which the seller has no legal requirement to register.
8. Whenever a state joins the agreement, sellers already registered under the agreement shall be ~~registered in the new~~ notified by the governing board and may elect to be registered in that state as follows:
 - a. ~~Model 1 sellers will be automatically registered in such state.~~

- b. ~~Model 2, model 3, and model 4 sellers will be automatically registered in the new state but may elect to be registered as a seller which anticipates making no sales into the new state.~~
9. ~~Upon registration, the~~ The governing board shall provide to the seller make information available regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state. ~~Member states~~ A member state may provide information to sellers concerning other tax return filing options in that state.
10. The governing board shall cause the system for registering under the agreement to include a feature that allows sellers registered under the agreement to update relevant registration data in the system and have such updated data provided to all ~~member~~ affected states utilizing the system. The governing board shall establish conditions and procedures to allow states which are not members of the agreement to participate in the registration system."

Page 9, after line 8, insert:

"SECTION 10. AMENDMENT. Section 57-39.4-19 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-19. (318) Uniform tax returns.

Each member state shall:

1. Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.
2. a. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
- b. When the due date for a return falls on a Saturday or Sunday or legal holiday in the subject member state, the return shall be due on the next succeeding business day. If the return is filed in conjunction with a remittance and the remittance cannot be made under subdivision b of subsection 5 of section 57-39.4-20, the return shall be accepted as timely filed on the same day as the remittance under that subsection.
3. Make available to all sellers, whether or not registered under the agreement, except sellers of products qualifying for exclusion from the provisions of section 57-39.4-09 of this agreement, a simplified return that is filed electronically as follows:

- a. The simplified electronic return hereinafter SER shall be in a form approved by the governing board and shall contain only those fields approved by the governing board. The SER shall contain two parts. Part 1 shall contain information relating to remittances and allocations and part 2 shall contain information relating to exempt sales.
- b. Each member state must notify the governing board if it requires the submission of the part 2 information provided no state may require the submission of part 2 information from a model 4 seller which has no legal requirement to register in the state.
- c. Returns shall be required as follows:
 - (1) Certified service providers must file an SER in all member states in which the model 1 seller is registered under the agreement, on behalf of model 1 sellers. Certified service providers, on behalf of these sellers, shall file the audit reports provided for in article V of the rules and procedures of the agreement for the states, and in addition, shall be required to file part 1 of the SER each month for each member state in which the model 1 seller is registered under the agreement. A state shall allow a model 1 seller to file both part 1 and part 2 of the SER. A model 1 seller which chooses to file both part 1 and part 2 of the SER shall still be required to file the audit reports provided for in article V of the rules and procedures of the agreement.
 - (2) Model 2 and model 3 sellers must file an SER in all member states ~~other than states for which they have indicated that they anticipate making no sales in which they are registered under the agreement~~. These sellers shall file part 1 of the SER every month for all states in which they ~~anticipate making sales are registered under the agreement~~. These sellers ~~need not file part 2 information until January 1, 2012. After this date, they shall have the following options for meeting their obligation to furnish part 2 information:~~
 - (a) File part 2 of the SER together with part 1 of the SER every month; or
 - (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. The sellers shall only be required to file part 2 of the SER for any state which has notified

the governing board that it will require the submission of the part 2 information under subdivision b.

- (3) Every member state shall allow model 4 sellers to file an SER. The sellers shall file part 1 of the SER every month unless a state allows less frequent filing. Model 4 sellers which have a legal requirement to register in the state shall have the following options for meeting their obligation to furnish part 2 information:
- (a) File part 2 of the SER together with part 1 of the SER; or
 - (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b. Model 4 sellers which elect not to file an SER shall file returns in the form under schedules afforded to sellers not registered under the agreement according to the requirements of each member state.

- (4) ~~No later than January 1, 2013, every~~ Every member state shall allow sellers not registered under the agreement that are registered in the state to file an SER. These sellers shall file part 1 of the SER every month unless a state allows less frequent filing and shall have the following options for meeting their obligation to furnish part 2 information:

- (a) File part 2 of the SER together with part 1 of the SER; or
- (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

- d. A state which requires the submission of part 2 information under paragraph 2 may provide an exemption from this requirement to a seller under terms and conditions set out by the state.

- e. A state may require a seller which elects to file an SER to give at least three months' notice of the seller's intent to discontinue filing an SER.
4. ~~Not require the filing of a return from a seller registered under the agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under the agreement. A seller shall lose this exemption upon making any taxable sales into the state and shall file a return in the month following the sale. A state may, but is not required to, allow a seller to regain such filing exemption upon such terms and conditions as the state may impose.~~
5. Adopt web services as the standardized transmission process that allows for receipt of uniform tax returns and other formatted information as approved by the governing board. The process must provide for the filing of separate returns for multiple legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a certified service provider, tax preparer, or any other authorized person to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.
65. Give notice to a seller registered under this agreement which has no legal requirement to register in the state, of a failure to file a required return and a minimum of thirty days to file thereafter prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return provided a member state may establish a liability amount for taxes based solely on the seller's failure to timely file a return if such seller has a history of nonfiling or late filing.
76. Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently."

Page 11, line 27, replace "12" with "14"

Renumber accordingly

Prepared by the Office
of State Tax Commissioner for
Senate Finance & Taxation Committee
January 21, 2019
19.8041.01000

PROPOSED AMENDMENTS TO SENATE BILL NO. 2089

Page 1, line 4, after the second comma, insert "subsections 1, 2, 3, 8, 9, and 10 of section 57-39.4-04,"

Page 1, line 5, after the first comma, insert "section 57-39.4-19,"

Page 1, line 5, after the third comma, insert "subdivision d of subsection 12 of section 57-40.2-04,"

Page 1, line 9, after the second comma, insert "seller registration,"

Page 1, line 9, after the third comma, insert "uniform tax returns,"

Page 7, after line 30, insert:

"SECTION 8. AMENDMENT. Subsections 1, 2, 3, 8, 9, and 10 of section 57-39.4-04 of the North Dakota Century Code are amended and reenacted as follows:

1. A seller registering under the agreement ~~shall be registered~~ may register in each one or more of the member states utilizing the central registration system provided in article IV of the agreement.
2. A ~~model 2, model 3, or model 4 seller may elect to be registered in one or more states as a seller which anticipates making no sales into the state or states if it has not had sales into the state or states for the preceding twelve months. This election does not relieve the seller of its agreement under section 401(B) to collect taxes on all sales into the states or its liability for remitting to the proper states any taxes collected~~ certified service provider may require a seller registering under the agreement, as a condition of receiving certified service provider services, to register in all of the full member states.
3. The member states agree not to require the payment of any registration fees or other charges for a seller ~~to register~~ registering through the central registration system in a state in which the seller has no legal requirement to register.
8. Whenever a state joins the agreement, sellers already registered under the agreement shall be ~~registered in the new~~ notified by the governing board and may elect to be registered in that state as follows:

- a. ~~Model 1 sellers will be automatically registered in such state.~~
 - b. ~~Model 2, model 3, and model 4 sellers will be automatically registered in the new state but may elect to be registered as a seller which anticipates making no sales into the new state.~~
9. Upon registration, the The governing board shall ~~provide to the seller~~ make information available regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state. ~~Member states~~ A member state may provide information to sellers concerning other tax return filing options in that state.
10. The governing board shall cause the system for registering under the agreement to include a feature that allows sellers registered under the agreement to update relevant registration data in the system and have such updated data provided to all ~~member affected states~~ utilizing the system. The governing board shall establish conditions and procedures to allow states which are not members of the agreement to participate in the registration system."

Page 9, after line 8, insert:

"SECTION 10. AMENDMENT. Section 57-39.4-19 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-19. (318) Uniform tax returns.

Each member state shall:

1. Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.
2. a. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
- b. When the due date for a return falls on a Saturday or Sunday or legal holiday in the subject member state, the return shall be due on the next succeeding business day. If the return is filed in conjunction with a remittance and the remittance cannot be made under subdivision b of subsection 5 of section 57-39.4-20, the return shall be accepted as timely filed on the same day as the remittance under that subsection.
3. Make available to all sellers, whether or not registered under the agreement, except sellers of products qualifying for exclusion from the provisions of section 57-39.4-09 of this agreement, a simplified return that is filed electronically as follows:

- a. The simplified electronic return hereinafter SER shall be in a form approved by the governing board and shall contain only those fields approved by the governing board. The SER shall contain two parts. Part 1 shall contain information relating to remittances and allocations and part 2 shall contain information relating to exempt sales.
- b. Each member state must notify the governing board if it requires the submission of the part 2 information provided no state may require the submission of part 2 information from a model 4 seller which has no legal requirement to register in the state.
- c. Returns shall be required as follows:
 - (1) Certified service providers must file an SER in all member states in which the model 1 seller is registered under the agreement, on behalf of model 1 sellers. Certified service providers, on behalf of these sellers, shall file the audit reports provided for in article V of the rules and procedures of the agreement for the states, and in addition, shall be required to file part 1 of the SER each month for each member state in which the model 1 seller is registered under the agreement. A state shall allow a model 1 seller to file both part 1 and part 2 of the SER. A model 1 seller which chooses to file both part 1 and part 2 of the SER shall still be required to file the audit reports provided for in article V of the rules and procedures of the agreement.
 - (2) Model 2 and model 3 sellers must file an SER in all member states ~~other than states for which they have indicated that they anticipate making no sales in which they are registered under the agreement~~. These sellers shall file part 1 of the SER every month for all states in which they ~~anticipate making sales are registered under the agreement~~. These sellers ~~need not file part 2 information until January 1, 2012. After this date, they shall have the following options for meeting their obligation to furnish part 2 information:~~
 - (a) File part 2 of the SER together with part 1 of the SER every month; or
 - (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. The sellers shall only be required to file part 2 of the SER for any state which has notified

the governing board that it will require the submission of the part 2 information under subdivision b.

- (3) Every member state shall allow model 4 sellers to file an SER. The sellers shall file part 1 of the SER every month unless a state allows less frequent filing. Model 4 sellers which have a legal requirement to register in the state shall have the following options for meeting their obligation to furnish part 2 information:

- (a) File part 2 of the SER together with part 1 of the SER; or
- (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b. Model 4 sellers which elect not to file an SER shall file returns in the form under schedules afforded to sellers not registered under the agreement according to the requirements of each member state.

- (4) ~~No later than January 1, 2013, every~~ Every member state shall allow sellers not registered under the agreement that are registered in the state to file an SER. These sellers shall file part 1 of the SER every month unless a state allows less frequent filing and shall have the following options for meeting their obligation to furnish part 2 information:

- (a) File part 2 of the SER together with part 1 of the SER; or
- (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

- d. A state which requires the submission of part 2 information under paragraph 2 may provide an exemption from this requirement to a seller under terms and conditions set out by the state.

- e. A state may require a seller which elects to file an SER to give at least three months' notice of the seller's intent to discontinue filing an SER.
- 4. ~~Not require the filing of a return from a seller registered under the agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under the agreement. A seller shall lose this exemption upon making any taxable sales into the state and shall file a return in the month following the sale. A state may, but is not required to, allow a seller to regain such filing exemption upon such terms and conditions as the state may impose.~~
- 5. Adopt web services as the standardized transmission process that allows for receipt of uniform tax returns and other formatted information as approved by the governing board. The process must provide for the filing of separate returns for multiple legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a certified service provider, tax preparer, or any other authorized person to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.
- 65. Give notice to a seller registered under this agreement which has no legal requirement to register in the state, of a failure to file a required return and a minimum of thirty days to file thereafter prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return provided a member state may establish a liability amount for taxes based solely on the seller's failure to timely file a return if such seller has a history of nonfiling or late filing.
- 76. Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently."

Page 11, after line 5, insert:

"SECTION 14. AMENDMENT. Subdivision d of subsection 12 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- d. "Supplies for ostomy care or bladder dysfunction" includes:
 - (1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.

- (2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinence pads and pants, adult diapers, and other items used for the care and management of bladder dysfunction. For the purposes of this paragraph, "diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements. "Children's diapers" means diapers marketed to be worn by children. "Adult diapers" means diapers other than children's diapers.

Page 11, line 27, replace "12" with "15"

Renumber accordingly



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Testimony of the Office of State Tax Commissioner

Before the

House Finance and Taxation Committee

Chairman Craig Headland

Senate Bill 2089

February 27, 2019

Chairman Headland, members of the House Finance and Taxation Committee, my name is Myles Vosberg, Director of the Tax Administration Division for the Office of State Tax Commissioner. I am here today to provide testimony in support of Senate Bill 2089. Representatives of the Property Tax Division are also present and available to respond to questions you may have on property tax sections of the bill. Senate Bill 2089 contains amendments proposed by the Tax Commissioner regarding property taxes and sales and use taxes. When addressing the property tax changes, I will also offer an additional amendment to the current version of Senate Bill 2089 to correct reference to a date change that was overlooked in the original bill proposal.

Property Tax

The Property Tax Division of the Office of State Tax Commissioner collects and reviews reports of companies taxed under N.D.C.C. Chapters 57-05, 57-06, and 57-33.2, which include centrally assessed property and electric taxes. Property tax changes proposed in this legislation address deadlines required to meet the budget hearings and estimated tax notice provided in N.D.C.C. §57-15-02.2. The bill is intended to create consistency in the deadlines of the company reporting.

Section 1. Section 1 amends N.D.C.C. §57-05-08, reports of railroad companies. Page 1, line 18, amends the annual report deadline from April 1 to May 1. Page 1, lines 19 and 20, amend the language “forms” to “the manner prescribed by the tax commissioner” to address current electronic filing of reports. Other changes in Section 1 are for clarification and improved definitions.

Section 2. Section 2 amends N.D.C.C. §57-06-06, reports of centrally assessed companies. Page 3, line 11, amends the annual report deadline from April 15 to May 1. Page 3, lines 13 and 14, amend the language “forms” to “the manner prescribed by the tax commissioner” to address current electronic filing of reports. Other changes in Section 2 are for clarification and improved definitions.

Section 3. Section 3 amends N.D.C.C. §57-06-09, the month in which a penalty will be applied for failure to furnish a report. On page 5, line 7, the date is changed from April 15 to May 1. Lines 8 through 10 repeal the application for extension to May 1. Deadlines that are currently prior to May 1 are proposed amendments that are changed to May 1 in SB 2089.

Section 4. Section 4 amends N.D.C.C. §57-06-12, notice of assessments. Page 5, lines 19 and 20, amend the language “by mail” to “in a manner determined by the tax commissioner” to address electronic sharing of notices.

Section 5. Section 5 amends N.D.C.C. §57-33.2-07, reports of electric companies. Page 5, lines 30 and 31, amend the language “on a form” to “the manner prescribed by the tax commissioner” to address current electronic filing of reports. Page 6, line 2, amends the date of the state board of equalization from August to July to concur with the date provided for the state board of equalization meeting to review centrally assessed properties in N.D.C.C. §57-06-12. Other changes in Section 5 are for clarification and improved definitions.

Proposed Amendment to Senate Bill 2089. The proposed amendment changes the date of the state board of equalization annual meeting from August to July in N.D.C.C. §57-06-05, annual assessment. This date change was inadvertently excluded in the original bill draft and conforms to the date change made in Section 5 above.

Sales and Use Tax

The Tax Administration Division of the Office of State Tax Commissioner administers the state, city, and county sales and use taxes. The sales tax changes proposed in this legislation address monthly filing requirements and amendments to the Streamlined Sales and Use Tax Agreement adopted by the SST Governing Board during the current biennium.

Sections 7 and 15. Current sales and use tax laws require sales tax permit holders with taxable sales or purchases in excess of \$333,000 in the previous calendar year to file sales tax returns monthly. Section 7 of Senate Bill 2089 authorizes the Tax Commissioner to waive this monthly filing and remittance requirement for good cause. An example of “good cause” might be a seasonal retailer that makes sales greater than \$333,000 in North Dakota at one event and has no other business activity in the state until the following year. Another example is a contractor that normally pays tax to its suppliers, but for one specific job is required to report and remit use tax on purchases greater than \$333,000. The following year, this contractor may have no taxable activity to report,

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but under the current law would be required to file twelve monthly returns. Section 15 of the bill is the same change as Section 7, but it is in Chapter 57-40.2, the use tax law.

Sections 6, 8, 9, 10, 11, 12, 13, and 14. 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. The Tax Commissioner has requested law changes every session since 2003 to reflect changes in the Agreement and to remain in compliance. 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.

North Dakota's approach to adopting the provisions of the SUTA into our law has been to adopt the entire agreement by reference in Section 1 of N.D.C.C. Chapter 57-39.4 except for Articles III and V of the Agreement. The detailed language of Articles III and V of the agreement have been adopted in the remaining sections of Chapter 57-39.4.

Sections 6, and 8 through 14 of Senate Bill 2089 are proposed changes to the sales tax laws that reflect amendments to the Streamlined Sales and Use Tax Agreement that have been adopted by the SST Governing Board.

Sections 6 and 14 - Current sales tax law contains an exemption for purchases of ostomy care and bladder dysfunction supplies, which includes incontinent pads and pants worn by adults. Based on this exemption in subsection 26 of N.D.C.C. §57-39.2-04, sales of diapers and similar clothing products used by adults with bladder dysfunctions are exempt from sales tax. However, diapers for children, which are also a clothing product, are taxable. Diapers and the subcategories of adult diapers and children's diapers were recently defined in the SUTA in order to allow member states to have a different application of tax to adult diapers and children's diapers. Section 6 codifies the SST definition of diapers to maintain North Dakota's current tax exemption for bladder dysfunction supplies. Section 14 is the same language in the use tax law in subsection 12 of N.D.C.C. §57-40.2-04.

Sections 8 and 10 - One of the simplifications that SST member states provide to the retail community is a central registration system. The central registration system is a computer program developed and maintained by the SST Governing Board. The certified system allows a retailer to register to collect sales and use taxes for all member states through a single online registration process rather than by applying to each individual member state separately. Prior to December, 2018, the SUTA required retailers registering through the central registration

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system to register and collect tax in every member state. A retailer that did not make any sales into an individual member state was not required to file returns in that state; however, the retailer was required to collect and remit state and local tax on every sale made into each member state regardless of the volume of sales in each state.

After the *Wayfair vs. South Dakota* Supreme Court Decision in June, 2018, member states began imposing requirements for remote retailers that have no physical presence in their states to collect the states' sales and use taxes after retailers reach a certain dollar amount or volume of sales in the state. North Dakota approved legislation in 2017 that now requires remote retailers to register and collect state and local sales taxes if more than \$100,000 of sales or two hundred separate sales are delivered into North Dakota by a remote retailer.

After implementing registration and collection requirements, SST member states found that retailers were reluctant to register through the centralized registration system because the SUTA would require tax collection in all member states even though the retailer may not be legally required to collect sales tax in states where they did not meet the collection threshold. In an effort to encourage retailers to register to collect tax and to register through the central registration system, the SST Governing Board adopted an amendment to the agreement that allows retailers to select which member states where the retailer wants to register.

Section 8 of the bill adopts into Chapter 57-39.4 the SUTA amendment that allows retailers to elect to register in less than all of the SST member states. Section 10 of the amendment complements Section 8 and clarifies that retailers or their Certified Service Providers must file sales and use tax returns for states in which the retailers are registered under the agreement (through the central registration system).

Section 9 – One requirement of SST member states is to make available to Certified Service Providers and retailers an electronic data base that identifies all state and local tax rates within the state and a separate database of five and nine digit zip codes located within each local taxing jurisdiction. The purpose of these databases is to identify the correct combined state and local sales tax rate based on deliveries to a specific nine digit zip code address. The amendment in Section 9 is simple clean-up language that clarifies the tax rate and zip code database information applies to all taxable transactions.

Section 11 – Section 11 of the bill amends a member state's requirement to provide advance notice regarding sales tax holidays. North Dakota law does not authorize sales tax holidays, and this change will not impact our state. The purpose of this amendment is to reflect the current terms of the SUTA that were previously adopted into Chapter 57-39.4.

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Sections 12 and 13 – The SST Agreement defines categories of products to help make sales tax laws more uniform between states and to simplify collection responsibilities for retailers. States have complete discretion to tax or exempt any specific category of products, however, all products within a defined category or subcategory must be taxed or exempted in the same manner. Examples of defined categories and subcategories of products are clothing, durable medical equipment, prewritten computer software and prepared food. Section 12 of the bill codifies the portion of the SST Agreement that requires all products within a defined product category to be taxed or exempted. Section 13 of the bill defines “Product Category” and identifies how member states “certify a product category”. By certifying a product category, a member state is formally acknowledging that specific products fall within a product category and that the state either taxes or exempts that category of products.

Section 16. Sections 1 through 5 of the bill, which amend property tax law, will be effective for the 2019 tax year.

Section 17. Sections 7 and 15 of the bill, which amend the requirements for filing monthly sales tax returns, will be effective for returns filed after July 31, 2019.

Conclusion

The purpose of Sections 1 through 5 and the proposed amendment, the property tax portion of Senate Bill 2089, is to create consistent deadlines for filing reports of centrally assessed and electric tax companies, without the need to request or provide an extension, and to provide appropriate language to address reporting requirements.

The remaining Sections of Senate Bill 2089 amend the sales and use tax laws to authorize the Tax Commissioner to waive the monthly sales and use tax return filing requirement for good cause and to adopt changes in the Streamlined Sales and Use Tax Agreement adopted by the Governing Board since the 2017 Legislative Session.

Senate Bill 2089 has no fiscal impact. The Office of the State Tax Commissioner respectfully requests that the Finance and Taxation Committee adopt the proposed amendment distributed today and give Senate Bill 2089, as amended, favorable consideration. Thank you.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2089 (19.8041.02000)

Page 1, line 3, after the first comma insert "57-06-05,"

Page 3, after line 10, insert:

"SECTION 2. AMENDMENT. Section 57-06-05 of the North Dakota Century Code is amended and reenacted as follows:

57-06-05. Annual assessment.

The state board of equalization, at its annual meeting in August July, shall assess the franchises and all operative property of power, gas, pipeline, and other companies, covered by this chapter, with reference to the value thereof on the first day of January of that year."

Page 17, line 24, after the fourth comma, insert "5,"

Page 17, line 24, after "and" insert "6"

Page 17, line 26, replace "7" with "8"

Page 17, line 26, replace "15" with "16"

Renumber accordingly