

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact subsection 5 of section 57-39.4-19 and sections  
2 57-39.4-29 and 57-39.4-33.4 of the North Dakota Century Code, relating to uniform tax returns,  
3 the taxability matrix, and tax administration practices under the sales and use tax agreement.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 5 of section 57-39.4-19 of the North Dakota  
6 Century Code is amended and reenacted as follows:

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

16 **SECTION 2. AMENDMENT.** Section 57-39.4-29 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **57-39.4-29. (328) Taxability matrix.**

- 19 1. a. To ensure uniform application of terms defined in part II and part III(B) of the  
20 library ~~of definitions~~ as adopted by the governing board under section 57-39.4-28,  
21 each member state shall complete, to the best of its ability, the section 4 of the  
22 taxability matrix titled "library of definitions".  
23 b. To inform the general public of its practices regarding certain ~~products,~~  
24 ~~procedures, services, or transactions adopted~~ tax administration practices as

1                   selected by the governing board under section 57-39.4-33.4, each member state  
2                   shall complete, to the best of its ability, the section 2 of the taxability matrix titled  
3                   "tax administration practices".

4           2.   The member state's entries in the taxability matrix shall be provided and maintained in  
5           a database that is in a downloadable format approved by the governing board. A  
6           member state shall provide notice of changes in the taxability of the products or  
7           services listed in the taxability matrix as required by the governing board.

8           3.   A member state shall relieve sellers and certified service providers from liability to the  
9           member state and its local jurisdictions for having charged and collected the incorrect  
10           amount of sales or use tax resulting from the seller or certified service provider relying  
11           on erroneous data provided by the member state in the library section of the taxability  
12           matrix. If a member state amends an existing provision of the library section of its  
13           taxability matrix, the member state shall, to the extent possible, relieve sellers and  
14           certified service providers from liability to the member state and its local jurisdictions  
15           until the first day of the calendar month that is at least thirty days after notice of  
16           change to a member state's library section of the taxability matrix is submitted to the  
17           governing board, provided the seller or certified service provider relied on the prior  
18           version of the taxability matrix.

19          4.   To the extent possible, the member state shall relieve sellers and certified service  
20           providers from liability to the member state and its local jurisdictions for having  
21           charged and collected the incorrect amount of sales or use tax resulting from the seller  
22           or certified service provider relying on erroneous data provided by the member state in  
23           the tax administration practices section of the taxability matrix. If a member state  
24           amends an existing provision of the tax administration practices section of its taxability  
25           matrix, the member state shall, to the extent possible, relieve sellers and certified  
26           service providers from liability to the member state and its local jurisdictions until the  
27           first day of the calendar month which is at least thirty days after notice of a change to a  
28           member state's tax administration practices section of the taxability matrix is submitted  
29           to the governing board, provided the seller or certified service provider relied on the  
30           prior version of the taxability matrix.

1        5. If a state levies sales and use tax on a specified digital product and provides an  
2            exemption for an item within the definition of such specified digital product under  
3            subsection 8 of section 57-39.4-33.1, such exemption must be noted in the library  
4            section of the taxability matrix.

5        5-6. Each state that provides for a sales tax holiday under section 57-39.4-23 shall, in a  
6            format approved by the governing board, give notice in the library section of the  
7            taxability matrix of the products for which a tax exemption is provided.

8        **SECTION 3. AMENDMENT.** Section 57-39.4-33.4 of the North Dakota Century Code is  
9        amended and reenacted as follows:

10        **57-39.4-33.4. Best(335) Tax administration practices.**

- 11        1. For purposes of this section, "~~best practices~~" ~~means those practices adopted by the~~  
12            ~~governing board as the best practices in administration of the sales and use taxes in~~  
13            ~~the member states regarding certain identified products, procedures, services, or~~  
14            ~~transactions.~~ tax administration practices consist of the following:
- 15            a. "Disclosed practice", which means a tax practice that the governing board selects  
16            and requires each member state to disclose under subsection 2; and
- 17            b. "Best practice", which means is a disclosed practice selected by the governing  
18            board as a best practice under subsection 3.
- 19        2. ~~A majority vote of the entire governing board is required to approve a motion to adopt~~  
20            ~~a best practices standard. The governing board shall select a disclosed practice using~~  
21            the following procedures:
- 22            a. The state and local advisory council shall develop a practice for disclosure under  
23            the guidelines set forth in governing board rule 335.
- 24            b. The governing board shall provide public notice and opportunity for comment  
25            prior to voting on a motion to adoptapprove selection of a besttax practice for  
26            disclosure.
- 27            c. If a disclosed practice and a best practice are under concurrent development  
28            under rule 335, the governing board first shall vote on whether the practice is a  
29            disclosed practice before proceeding on a vote on whether the practice should be  
30            selected as a best practice.

- 1           d. A majority vote of the entire governing board is required to approve a motion to  
2           select a tax practice for disclosure.
- 3           3. The governing board shall select a best practice using the following procedures:
- 4           a. The state and local advisory council shall develop a best practice under the  
5           guidelines set forth in governing board rule 335 only from among the disclosed  
6           practices or from tax practices in concurrent development under subsection 2.
- 7           b. The governing board shall provide notice and opportunity for public comment  
8           before voting on a motion to approve selection of a best practice.
- 9           c. A three-fourths vote of the entire governing board is required to approve a motion  
10          to select a best practice.
- 11          4. ~~BestTax administration~~ practices adopted by the governing board must be maintained  
12          in an appendix to the agreement.
- 13          ~~4.5. Conformance by a member state to best practices adopted by the governing board is~~  
14          ~~voluntary and a~~ A state may not be found to be out of compliance with the agreement  
15          because the effect of the state's laws, rules, regulations, and policies do not follow  
16          ~~each of the best practices adopted by the governing board~~ a tax administration  
17          practice. Following a tax administration practice is voluntary. All member states are  
18          encouraged to follow each best practice.
- 19          ~~5.6. A~~ Each state shall complete the best practice matrix by the first day of the calendar  
20          month that is at least thirty days after the date the governing board approves a best  
21          ~~practice and submits it~~ submit to the executive director for posting on the governing  
22          board's website. For subsequent best practices approved by the governing board, a  
23          ~~state shall update its best practice matrix~~ the tax administration practices section of  
24          the taxability matrix by the first day of the calendar month that which is at least  
25          ~~thirtysixty~~ days after the date the governing board approves a new motion to select a  
26          disclosed or best practice and submits it to the executive director for posting on, or  
27          both, or the date specified by the governing board's website board, whichever is later.
- 28          7. Using the procedure for updating the taxability matrix, the executive director shall  
29          make the necessary updates to the taxability matrix template no later than thirty days  
30          after the date the governing board approves a motion to select a disclosed or best  
31          practice.

- 1       8. All best practices existing on May 11, 2015, are disclosed practices. The executive  
2           director shall implement this provision without changing any of the member states'  
3           responses.
- 4       9. A disclosed practice may subsequently be modified or become a best practice by  
5           following the provisions set forth in this section.