

(Return in triplicate)

FISCAL NOTE

FIRST ENGROSSMENT

Bill/Resolution No.: _____ Amendment to: SB 2555

Requested by: LEGISLATIVE COUNCIL Date of Receipt: 4-15-87

Please estimate the fiscal impact of the above measure for:

State general or special funds Counties Cities

In the following space note the fiscal effect in dollars of this measure:

Narrative:

If SB 2555 (First Engrossment) is enacted, it will supplement and strengthen the tax provisions passed in HB 1195. A copy of HB 1195 is attached.

The potential positive fiscal effects relative to SB 2555 (First Engrossment) are included in the fiscal note for HB 1195. A copy of the fiscal note for HB 1195 is attached.

State Fiscal Effect:

<u>1987-88</u>		<u>1988-89</u>		<u>Biennium Total</u>	
<u>Special Funds</u>	<u>General Fund</u>	<u>Special Funds</u>	<u>General Fund</u>	<u>Special Funds</u>	<u>General Fund</u>

County and City Fiscal Effect:

<u>1987-88</u>		<u>1988-89</u>		<u>Biennium Total</u>	
<u>Counties</u>	<u>Cities</u>	<u>Counties</u>	<u>Cities</u>	<u>Counties</u>	<u>Cities</u>

If additional space is needed, attach a supplemental sheet.

Signed *Sid Bender*

Typed Name Sid Bender

Date Prepared: 4-15-87

Department Tax Department

Fiftieth Legislative Assembly, State of North Dakota, begun and held at the Capitol in the City of Bismarck, on Tuesday, the sixth day of January, one thousand nine hundred and eighty-seven.

HOUSE BILL NO. 1195
(Committee on Finance and Taxation)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 8 of section 57-39.2-01 and subsection 6 of section 57-40.2-01 of the North Dakota Century Code, relating to collection of sales and use taxes by out-of-state retailers; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 8 of section 57-39.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, and communication services, or tickets or admissions to places of amusement, entertainment, and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the

purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

SECTION 2. AMENDMENT. Subsection 6 of section 57-40.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Retailer" includes every person engaged in the business of selling tangible personal property for use within the meaning of this chapter, but, when in the opinion of the commissioner, it is necessary for the efficient administration of this chapter to regard any salesman, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom he operates or from whom he obtains the tangible personal property sold by him, whether he is making sales in his own behalf or in behalf of such dealer, distributor, supervisor, employer, or other person, the commissioner may regard him as such agent, and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of this chapter. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on April 1, 1987.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Speaker of the House

Chief Clerk of the House

President of the Senate

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fiftieth Legislative Assembly of the State of North Dakota and is known on the records of that body as House Bill No. 1195.

Chief Clerk of the House

This certifies that two-thirds of the members of the House of Representatives present and voting, voted in favor of said law.

Vote:	Ayes	103	Nays	1	Absent	2
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Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members of the Senate present and voting, voted in favor of said law.

Vote: Ayes 49 Nays 1 Absent 3

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1987.

Approved at 5:00 P.M. on 3/12, 1987.

Governor

Filed in this office this 16th day of March,
1987, at 10:44 o'clock A.M.

Secretary of State

(Return in triplicate)

FISCAL NOTE

Bill/Resolution No.: _____ Amendment to: House Bill No. 1195

Requested by: Legislative Council Date of Receipt: 1-19-87

Please estimate the fiscal impact of the above measure for:

State general or special funds Counties Cities

In the following space note the fiscal effect in dollars of this measure:

Narrative:

The amendment to HB 1195 establishes an April 1, 1987 effective date. In our opinion, this amendment will not change the original fiscal effect set out relative to HB 1195.

In other words, HB 1195 with January 14, 1987 amendments, may generate a positive fiscal effect in the 1987-89 biennium if:

- 1). The provisions of the bill withstand a likely court challenge, and/or
- 2). The U.S. Congress enacts legislation which will enable states to impose a sales tax on mail order or direct market sales.

In the event that North Dakota may impose a sales tax on mail order and direct marketing sales effective April 1, 1987, the potential positive fiscal effect would be between +8.4 million and +19.9 million to the State General Fund in the 1987-89 biennium.

Since North Dakota may not be granted authority to implement the provisions of HB 1195 with January 14, 1987 amendments, we recommend that the Legislative Council exclude this potential positive effect from the 1987-89 biennium State General Fund revenue projections.

State Fiscal Effect:

<u>1987-88</u>		<u>1988-89</u>		<u>Biennium Total</u>	
<u>Special Funds</u>	<u>General Fund</u>	<u>Special Funds</u>	<u>General Fund</u>	<u>Special Funds</u>	<u>General Fund</u>

County and City Fiscal Effect:

<u>1987-88</u>		<u>1988-89</u>		<u>Biennium Total</u>	
<u>Counties</u>	<u>Cities</u>	<u>Counties</u>	<u>Cities</u>	<u>Counties</u>	<u>Cities</u>

If additional space is needed, attach a supplemental sheet.

Signed *Kathryn L. Strombeck*

Typed Name Kathryn L. Strombeck

Date Prepared: 1-19-87

Department Tax Department

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