

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/21/2021**

Amendment to: HB 1310

- 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.*

	2019-2021 Biennium		2021-2023 Biennium		2023-2025 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

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

	2019-2021 Biennium	2021-2023 Biennium	2023-2025 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 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).*

Engrossed HB 1310 removes a requirement that purchasers owe state and local sales and use tax when a retailer has failed to charge the tax at the time of the sale.

- 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.*

Section 1 exempts purchases from sales tax if the retailer failed to collect the sales tax and the transaction was less than \$5,000.

Section 2 exempts entities from use tax if it is not collected at the time for the transaction and if the transaction was less than \$5,000.

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.*

As a result of the 2018 US Supreme Court decision in SD v. Wayfair, Inc., most household "remote" purchases should be subject to the statutory amount of sales and use tax collected at the point of sale, and most will be unaffected by the provisions of this bill. However, if remote sellers fail to collect and remit the sales taxes, the enactment of this bill will mean the taxes are not required to be remitted, possibly reducing a portion of the remote sales tax collections currently being remitted.

Business purchases have historically been subject to sales tax auditing and additional use tax is frequently found to be due. This continues to occur even after the Wayfair decision. Engrossed HB 1310, if enacted, would eliminate the audit collections for those business purchases under \$5,000 on which the tax was not paid at the time of the purchases. This will result in a loss of state general fund and state aid distribution revenues, in an amount that cannot be determined.

- 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:** 01/22/2021