15.0788.01000

FISCAL NOTE
Requested by Legislative Council
01/13/2015

Bill/Resolution No.: HB 1276

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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(140,000,000)			
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 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).*

HB 1276 creates a new income tax credit for individuals who contribute to a nonprofit organization exempt from federal income tax under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code. The bill also requires the credit to be placed on Form ND-EZ, the short form for individuals.

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 of the bill will create a new income tax credit for individuals who contribute to a nonprofit organization exempt from federal income tax under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code. 501(c)(3) organizations include those set up for charitable, educational, religious, scientific, literary, and other specified exempt purposes, which make up most charitable organizations. 501(c)(19) organizations include U.S. armed forces veterans' organizations and their auxiliaries, such as the American Legion and AMVETS.

The credit is equal to the amount of the contribution, up to a maximum credit of $250 per taxpayer per year. The maximum credit per year is $500 for married taxpayers who file a joint return. The credit is allowed to both resident and nonresident individuals. To the extent that the contribution for which a credit is allowed reduces the contributor's federal taxable income, it must be added back into North Dakota taxable income.

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.*

If enacted, HB 1276 is expected to reduce state general fund revenues by an estimated -$130 million to -$150 million for the 2015-17 biennium.

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 L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/24/2015

2015 HOUSE FINANCE AND TAXATION

HB 1276

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1276
1/26/2015
22495

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to an individual income tax credit for contributions to a nonprofit organization; relating to claiming an individual income tax credit for contributions to a nonprofit organization.

Minutes: Attachment #1, 2, 3

Chairman Headland: Opened hearing.

Representative Fehr: Introduced bill. Distributed testimony. See attachment #1. (Ended testimony at 4:00)

Chairman Headland: Would my wife and I be able to receive a $500 tax credit for our ties to the offering plate in church on Sunday?

Representative Fehr: I don't know for sure your church is a 501c3 but assuming it is and assuming you don't already deduct or take tax deductions that is a possibility.

Representative Strinden: Religious nonprofits are 501c4s, correct? So that isn't included?

Representative Fehr: I will defer that question to the next speaker. My understanding is that all churches are 501c3s or could be but not all of them have done the paperwork to become 501c3s.

Chairman Headland: Is there any testimony in support of HB 1276?

Jessica Gilbertson, Executive Director for North Dakota Association of Nonprofit Organizations (NDANO): Provided testimony in support. See attachment #2. (Ended testimony at 7:55)

Chairman Headland: Why do you believe the state has to provide a tax credit to generate charitable donations?

Jessica Gilbertson: I think it's an incentive to give. When our organization started thinking about a bill like this we wanted to target a group of people that might not otherwise give. There are charitable tax credits if you're giving away thousands of dollars, like the endowment tax credit. There's nothing for people who don't make quite as much money who could afford to give maybe $200 might not otherwise but might if there was a tax credit.

Chairman Headland: My question is then if it's charity then if you're going to receive a benefit at the end? We are trying to encourage people to give but they're receiving a benefit for their charity and I don't think the two works very well together.

Representative Trottier: I feel the very same way that giving and charity comes from the heart. Do you feel just as good to give if you're getting a tax break?

Jessica Gilbertson: I would like to answer the question from before about religious organizations. There are 501c3 statuses available for churches; they just don't have the same reporting requirements. They don't have to fill out the 990 form.

Representative Strinden: 501c3s don't have to fill out the 990 form?

Jessica Gilbertson: Churches don't have to report.

Representative Strinden: The 501c4s don't have to but the 501c3s do? I used to run a 501c3 and I had to fill out the 990 forms.

Jessica Gilbertson: Churches have different requirements. I have some information on that I will hand out which talks about the reporting requirements. Distributed pamphlet on NDANO. See attachment #2 pages 3-6.

Chairman Headland: Further support for HB 1276?

Christopher Dodson, North Dakota Catholic Conference: Churches don't have to be a 501c3 or a 501c4; it's voluntary. For the certain tax benefits of being a 501c3 you don't want to be taxed and if contributors want the tax donation they should be a 501c3. There are religious organizations that are 501c4s by choice but most churches, places of worship, are 501c3s. The reason they have different reporting requirements is because many of them are under what would be a group ruling. For all the catholic entities in the nation that qualify they are under a group ruling with the US Conference of Catholic Bishops so they don't have to file the 990 form because under the group ruling they do all that. If I was not under a group ruling my understanding is I would then have to do the paperwork.

Chairman Headland: Thank you for that clarification. I don't want to have to think of a credit when I'm writing my check out for the collection plate on Sunday. Is there any further testimony in support? Is there any opposition to HB 1276? Tax department?

Matt Peyerl, Office of State Tax Commissioner: We had some involvement with this bill concept and it was intended at some point to be a credit for those that can't or don't itemize on their federal return. That language isn't in this bill so this would apply to everyone. I

think the sponsor's intent was that it only applies to non-itemizers. Roughly one third of all taxpayers may itemize and the other two thirds might not so this was a bill targeted to provide credit for those non-itemizers. I'll leave it to the sponsors to pursue the amendment if that's their intent.

Chairman Headland: Have you seen the fiscal note?

Matt Peyerl: I have not yet.

Chairman Headland: It looks like it's about $140 million.

Matt Peyerl: I expected a big number on it. I wasn't sure if they were going to do a cannot determine or what kind of price tag was going to be on there. If it were changed to just non-itemizers that would shrink considerably would be my understanding of the intent.

Chairman Headland: This would be inclusive of everybody?

Matt Peyerl: I assume the fiscal note was written using the current language that's in the bill.

Representative Schneider: Of the two thirds that itemize are they allowed a tax deduction currently for charitable contributions?

Matt Peyerl: They wouldn't take a deduction on their federal income tax return and that's why they are non-itemizers; they don't have enough other federal deductions so it's more beneficial for them to take the standard deduction. There's the potential they might claim a state credit for contributing to an endowment fund or something else for state credit but the reason they are non-itemizers is that they are not deducting those on their federal return.

Representative Schneider: The one third that can itemize, are they currently allowed then to contribute to a charitable or nonprofit purpose and itemize? So we're already given those people the ability to get a tax deduction for a charitable contribution?

Matt Peyerl: They have a deduction for the contribution so it reduces their taxable income. This bill is to provide them a tax credit. It would be a dollar for dollar tax credit is more valuable than the deduction. The itemizers would take a deduction.

Chairman Headland: We'll close the hearing on HB 1276.

Murray Sagsveen, President of the North Dakota Association of Nonprofit Organizations (NDANO): Provided written testimony in support but was not at the hearing. See attachment #3.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1276
2/9/2015
23494

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to an individual income tax credit for contributions to a nonprofit organization; relating to claiming an individual income tax credit for contributions to a nonprofit organization.

Minutes: No attachments.

Chairman Headland: This is an income tax credit for any contribution to any nonprofit.

Representative Froseth: MADE A MOTION FOR A DO NOT PASS.

Representative Dockter: SECONDED.

ROLL CALL VOTE: 11 YES 3 NO 0 ABSENT
MOTION CARRIES FOR DO NOT PASS

Representative Froseth will carry this bill.

Date: 2-9-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1276

House 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 Rep. Froseth Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN		✓
REP DOCKTER	✓		REP MITSKOG		✓
REP TOMAN	✓		REP SCHNEIDER		✓
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 11 No 3

Absent 0

Floor Assignment Rep. Froseth

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

REPORT OF STANDING COMMITTEE

HB 1276: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1276 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1276

HB 1276
1-26-15
#1 p.1

Testimony on HB 1276
Rep Alan Fehr, District 36

Mr Chairman and members of the Finance and Tax Committee, I am Representative Alan Fehr of District 36.

I am here to introduce HB 1276, which allows a tax credit for contributions to certain nonprofit, charitable organizations, specifically those that are a 501(c)(3) or 501(c)(19).

A 501(c)(3) nonprofit includes organizations whose work is charitable, religious, educational, scientific, literary, involves testing for public safety, fosters amateur sports competition, or prevents cruelty to children or animals. If you know a non-government charity organization, it is probably a 501(c)(3).

501(c)(19) nonprofits are those posts or organizations of military veterans, such as the American Legion, VFW, and AMVETS.

Section 1 of this bill allows a tax credit for a contribution to a qualified nonprofit. The tax credit is equal to the amount of their contribution, up to $250 for an individual and up to $500 for married persons filing jointly. This credit can be applied to their state income tax form, whether they file the long or short form. Contributions that are applied to a tax deduction cannot also be used to get this tax credit.

I can't over-state the importance of charitable nonprofit organizations. Nonprofits work to improve our society, help our vulnerable citizens, and promote common good. Nonprofits primarily survive on donations and grants, which has dramatically decreased since 9/11, making it very difficult for them to perform their missions.

Perhaps the reason I am most interested in this tax credit is that I believe we need to find another way to help nonprofits be financially stable and sustain their missions. We receive many requests to fund charitable projects, programs, and services. Those that are funded are usually funded by appropriating money to a department, such as the Health Department or the Department of Human Services, which then creates a granting structure to allocate funds. There are three major problems with this:

1. It creates winners and losers in the granting process. A few programs get funded and many do not.
2. It takes staff resources to manage the grant. Every time a grant process is created, there are administrative costs that reduce the dollars involved.
3. It expands state government by increasing the need for staff FTEs.

People making contributions to nonprofits are voting with their pocketbook. People know the charities in their communities and will donate to the charities they know are doing a good job. We can use tax credits to encourage that process and leverage donations to nonprofits.

Thank you for your consideration of HB 1276. I welcome your questions.

NDANO NORTH DAKOTA ASSOCIATION OF NONPROFIT ORGANIZATIONS

PO Box 1091 • Bismarck, ND 58502 • Phone: 701-258-9101 • 888-396-3266 • Fax: 701-223-4645 • www.ndano.org

HB 1276
1-26-15
#2p.1

Testimony by Jessica Gilbertson, NDANO Executive Director

House Finance & Taxation Committee

In Support of HB 1276

Monday, January 26, 2015

Chairman Headland and Members of the Committee, my name is Jessica Gilbertson, and I am the executive director of the North Dakota Association of Nonprofit Organizations (NDANO). We are here in support of House Bill 1276.

NDANO represents more than 180 nonprofit members throughout North Dakota with diverse mission areas – from human services and the environment to education and the arts. We are committed to strengthening communities and enhancing quality of life through engaging and ensuring a strong charitable sector.

We are asking for your support of HB 1276 because we believe it would have a positive impact on charitable organizations in our state, while also providing a tax incentive to North Dakotans. HB 1276 would provide a tax credit for North Dakota taxpayers who do not itemize on their tax return. Taxpayers would be able to take a small tax credit on their state income tax when they donate to qualifying North Dakota charitable nonprofits. Taxpayers are able to keep more of their money, and North Dakota nonprofits benefit.

There are more than 3,300 public charities operating in our state. Most of these nonprofits are small, volunteer-run, community-based organizations. In fact, 42 percent of registered charitable nonprofits have revenue of less than $100,000. This means donations from individuals and local businesses provide essential support for the work of nonprofits for our common good in North Dakota.

This legislation would have a positive impact on our state and its citizens. It would strengthen North Dakota by encouraging charitable giving to support nonprofits' work to improve our quality of life. It would empower North Dakotans to give more and have a greater impact.

We believe this type of tax credit would bring in many potential new donors for nonprofit organizations in the state. There are currently tax deductions and programs available for itemizers, but nothing available for the non-itemizer. This tax credit would also give nonprofits one more tool to use when asking for charitable gifts.

Nonprofits across the state are frequently asked to do more with less. Requests for money are increasingly competitive, available grants are fewer, and more and more nonprofits are asking donors for the same money.

We ask for a "do pass" recommendation on HB 1276, and I will be happy to answer any questions.

Supporters of House Bill 1276

African Soul, American Heart	Fargo
Bethany Retirement Living	Fargo
Bethel Lutheran Foundation	Willison
Beyond Shelter Inc.	Fargo
Catholic Charities of North Dakota	Fargo
Lake Region Community College Foundation of Devils Lake	Devils Lake
Global Friends Coalition	Grand Forks
Home on the Range	Sentinel Butte
Minot Area Homeless Coalition	Minot
Missouri Valley Historical Society	Bismarck
North Dakota Coalition for Homeless People	Bismarck
North Dakota Community Foundation	Bismarck
Northlands Rescue Mission	Grand Forks
Prairie Learning Center Foundation	Raleigh
Prairie Public Broadcasting	Fargo
Roosevelt-Custer Regional Council	Dickinson
Ruth Meiers Hospitality House	Bismarck
Welcome House, Inc.	Bismarck
Williston Community Library Foundation	Williston

#2 p.3

NORTH DAKOTA NONPROFITS: Partners IN Prosperity

Nonprofit Sector Report

An overview of the role and depth of the North Dakota Nonprofit Sector, published by the North Dakota Association of Nonprofit Organizations

North Dakota Association
NDANO
of Nonprofit Organizations

What Is a Nonprofit Organization?

Nonprofit organizations are known by several names: charities, community-based organizations, the philanthropic sector, the social sector. What makes nonprofits different from businesses is the focus on achieving mission, not profit. Nonprofits working to achieve their missions in North Dakota are incredibly diverse. They include emergency shelters, museums, community health centers, arts organizations, and many more. These organizations enhance our communities and provide valuable services to our citizens. They are indeed partners in the prosperity we enjoy in North Dakota.

This report focuses on a unique category of nonprofits, those classified by the Internal Revenue Service (IRS) as 501(c)(3) organizations. They are exempt from federal income tax and are able to receive tax deductible contributions. Charitable nonprofits make up the majority of North Dakota nonprofits. Reporting charitable nonprofits, those with annual revenue of more than $10,000, are the focus of this report.

North Dakota's Nonprofit Sector

The nonprofit sector touches the lives of nearly everyone in North Dakota. As individual organizations, nonprofits are diverse, innovative and address a wide range of issues. The nonprofit community is there to respond in a crisis, provide a safety net to those in need, build affordable housing, promote the arts, train the workforce and much more. As North Dakota experiences a time of unprecedented prosperity, the nonprofit sector is a valuable partner enriching the quality of life we enjoy.

Charitable Nonprofits:
Those granted tax exempt status as a 501(c)(3) by the IRS and may receive tax-deductible contributions

As you read this report, we ask that you think about all the ways that nonprofits partner with the government, businesses, communities and citizens to address some of our state's most demanding problems. As we work to solve these problems, the nonprofit sector will continue to be a part of our state's prosperity. Join us in ensuring a strong charitable nonprofit sector in North Dakota.

North Dakota Nonprofits by the Numbers

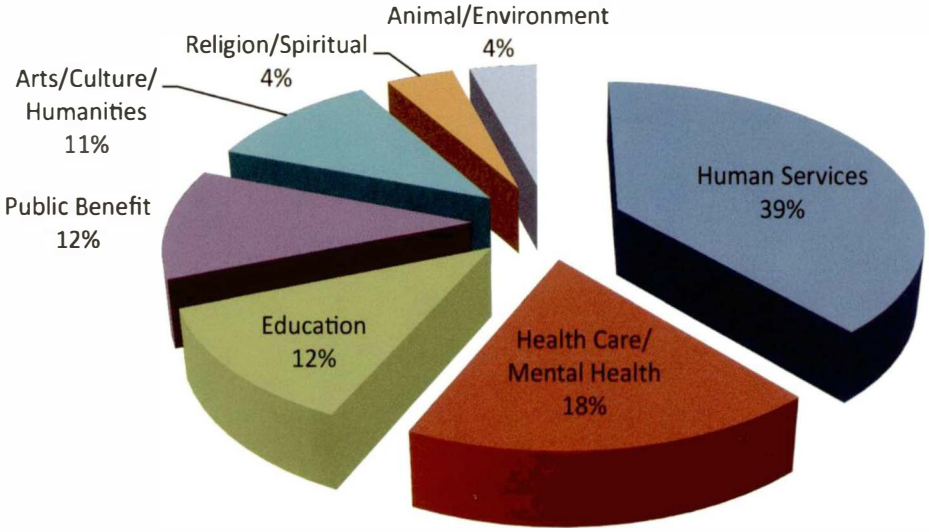
North Dakota is home to 5,475 nonprofits. Of these, 3,328 are public charities, including community-based organizations, hospitals and colleges. Another 117 are private foundations. The remaining 2,030 are other nonprofits, such as fraternal organizations and trade associations. Generally not accounted for in these numbers are religious congregations, which are not required to report to the IRS.[1]

1,163 } Reporting Charitable Nonprofits in North Dakota

Nonprofits by Mission

Human service organizations make up the majority of charitable nonprofits. These organizations provide a number of vital safety net services in our communities, including disaster relief, shelter for the homeless, services for children and families, and more. Health care/mental health organizations come in second with 18 percent, and education organizations are third at 12 percent.

Reporting Charitable Nonprofits by Mission



SOURCE: Core Public Charity Files, NCCS Data Web, National Center for Charitable Statistics, http://nccsweb.urban.org/ ©2014
*Reporting Charitable Nonprofit is one with annual revenue of more than $10,000.

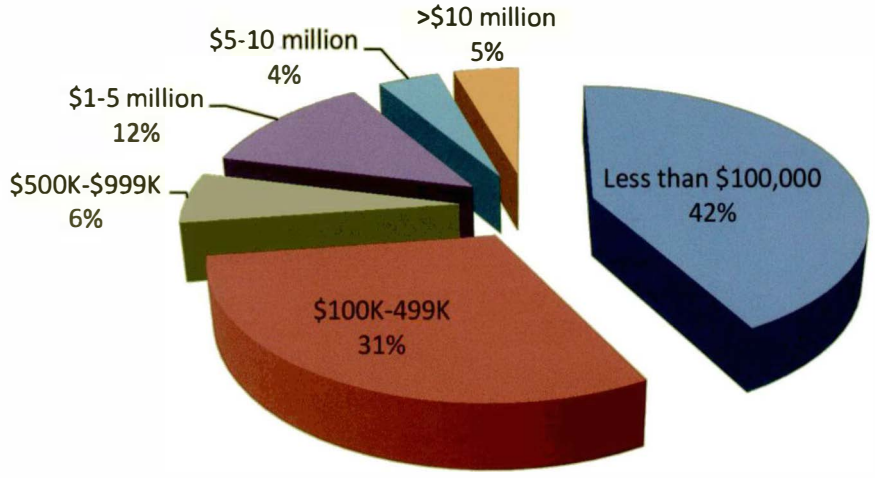
1 IRS Master Business Files (BMF), NCCS Data Web, National Center for Charitable Statistics, http://nccsweb.urban.org/ ©2014

#2p.5

Big Missions, Small Budgets

Despite the large number of people that are employed by nonprofits and the amount of money that nonprofits generate in the state, the majority of nonprofits are small, community-based organizations with modest budgets. In fact, more than 70 percent of North Dakota's registered charitable nonprofits have budgets of less than $500,000 a year. Only 5 percent of nonprofits in the state have budgets greater than $10 million.

Registered Charitable Nonprofits by Revenue



SOURCE: IRS Master Business Files (BMF), NCCS Data Web, National Center for Charitable Statistics, http://nccsweb.urban.org/
©2014

More than Charity

Nonprofits are a vital partner in the booming North Dakota economy. North Dakotans are employed by nonprofits, utilize nonprofits and support nonprofits. Nonprofits purchase products and services in the communities in which they work, and their employees pay income taxes, property taxes and local taxes.

50,775 Number of North Dakotans Employed by Nonprofit Sector[2]

11.4% Percentage of North Dakota's Workforce Made up by Nonprofits[3]

$6.1 Billion Amount of Expenditures Generated by North Dakota Nonprofits[4]

2 Bureau of Labor Statistics, Research Data on the Nonprofit Sector, http://www.bls.gov/bdm/nonprofits/nonprofits.htm
3 Bureau of Labor Statistics, Research Data on the Nonprofit Sector, http://www.bls.gov/bdm/nonprofits/nonprofits.htm
4 IRS Master Business Files (BMF), NCCS Data Web, National Center for Charitable Statistics, http://nccsweb.urban.org/ ©2014

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NDANO, Bismarck

Acknowledgements

This publication would not be possible without the support of many organizations, including the National Council of Nonprofits and its state association network, New Hampshire Center for Nonprofits, Nonprofit Association of the Midlands, Maine Association of Nonprofits, NDANO nonprofit and associate members, and the North Dakota Community Foundation. NDANO extends a special thank you to its nonprofit members that shared their photographs.

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Leveraging Resources

Although North Dakota nonprofits use a variety of funding sources, the sector relies largely on the generosity of private donors and foundations. Public support from individuals, businesses and foundations all help finance nonprofit sector work. Regardless of budget and staff size, nonprofits are held accountable by the public and their funders, and they strive for transparency in their work for the common good.

Foundations in North Dakota

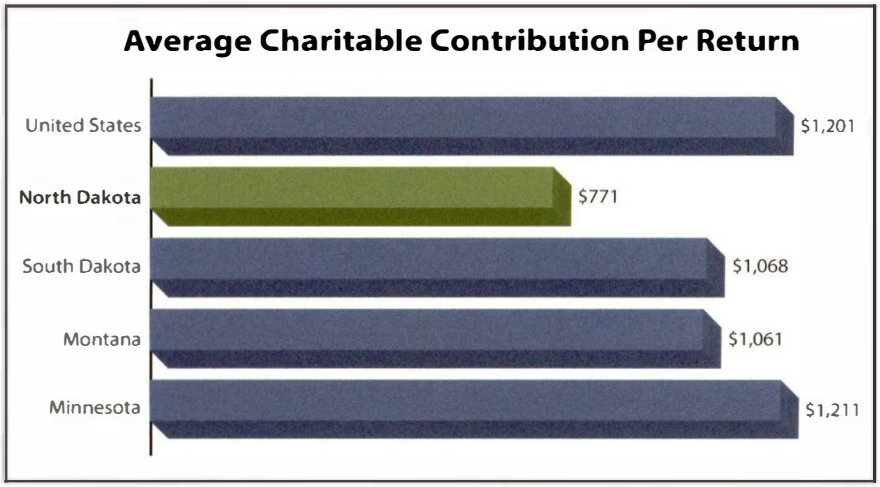
Foundations in North Dakota are small in number, representing about 0.1 percent of all the foundations in the United States. The total assets of foundations in North Dakota are more than $353 million, and their giving totals almost $20 million.

Foundation Overview	Number	Assets	Total Giving
Total in North Dakota	89	$353,456,718	$19,314,794
Total in United States	86,192	$715,455,554,329	$51,823,843,568
North Dakota as Percent of U.S.	0.10%	0.05%	0.04%

SOURCE: The Foundation Center, foundationcenter.org/statistics/ ©2012

Individual Charitable Giving in North Dakota

Annually, North Dakotans give more than $272 million to charity.[5] The average charitable contribution per tax return in the state is $771. The national average is $1,201.[6]



SOURCE: IRS Statistics of Income, National Center for Charitable Statistics, http://www.irs.gov/pub/irs-soi/ ©2014

5 Chronicle of Philanthropy, How America Gives, http://philanthropy.com/article/Interactive-Explore-How/ ©2014

6 IRS Statistics of Income, National Center for Charitable Statistics, http://irs.gov/pub/irs-soi/ ©2014

About NDANO

As the premier association, leader, and voice of North Dakota's nonprofits, the North Dakota Association of Nonprofit Organizations (NDANO) strengthens communities and enhances quality of life through engaging and ensuring a strong charitable sector.

NDANO is the statewide membership association advancing nonprofit organizations through advocacy and public policy, education and training, resources and research, cost-saving programs, and networking and leadership.

Report made possible with support from

NDCF
NORTH DAKOTA COMMUNITY FOUNDATION

HB 1276
1-26-15
#3

House Finance & Tax Committee
Testimony Concerning House Bill 1276
Murray G. Sagsveen
January 26, 2015

I am Murray Sagsveen, President of the North Dakota Association of Nonprofit Organizations (NDANO). NDANO urges this committee to give a "do pass" to this bill.

This bill would allow North Dakota taxpayers who do not itemize their deductions to take up to a $250 tax credit for donations to nonprofit organizations that are exempt from federal income tax under 501(c)(3) of the Internal Revenue Code.

The intent of this bill is to encourage North Dakota taxpayers to contribute to the tax-exempt nonprofit of their choice – whether it is a home for the homeless, a foundation that supports a medical facility, a private school, a church, a foundation that supports a public college or university, or the local charity.

Approval of this bill would be another step by the Legislative Assembly to recognize the social compact between government and nonprofit organizations to support those in need, improvements to education, essential medical care, and other programs that improve our communities, our society, and our state.

Enclosed is a brochure, *North Dakota Nonprofits: Partners in Prosperity,* which explains the importance of nonprofit organizations in North Dakota.

I urge a "do pass" on House Bill 1276. Thank you.

Contact information:
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701-426-1905
Lobbyist No. 454