

FISCAL NOTE
Requested by Legislative Council
01/13/2015

Bill/Resolution No.: HB 1278

- 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			\$(26,300,000)	\$(2,500,000)		
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 1278 provides a sales tax exemption for purchases made by charitable nonprofit organizations.

- 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.*

If enacted, HB 1278 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$28.8 million in the 2015-17 biennium.

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 L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/16/2015

2015 HOUSE FINANCE AND TAXATION

HB 1278

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1278
1/19/2015
22121

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill relating to a sales tax exemption for purchases by certain charitable nonprofit organizations.

Minutes:

Attachment #1, 2, 3, 4, 5

Chairman Headland: Opened hearing. Clerk read the title of the bill.

Representative Fehr: Introduced bill. Provided written testimony. See attachment #1.

Chairman Headland: Can you tell the committee what kinds of products you're talking about that you would like for the exemption?

Representative Fehr: The exemption refers to the types of things they use in their practice; anything from office supplies and things that are part of their normal budget for their primary purpose.

Representative Steiner: On the fiscal note, what is it for the Am Vets and American Legion VFW? The fiscal note is one lump sum and I'm assuming there's a fiscal note for each piece of that.

Myles Vosberg, Tax Commissioner's Office: I don't know that I can specifically break out the piece for the Am Vets and military type organizations. We arrived at this fiscal note from the numbers from a bill last session and updated them. The general information came from the North Dakota Nonprofits Association. They have a report of the expenditures reported to the IRS on the 990 form for nonprofit organizations. It identified all their expenditures then we approximated a percentage of each category that would be subject to sales tax and that's how we arrived at this number.

Chairman Headland: Any questions for Representative Fehr?

Representative Froseth: Myles, isn't there an exemption for many of the nonprofits now? Twenty eight million dollars for the biennium is a lot of money for the tax exemption.

Myles Vosberg: Right now there's an exemption for some of the fundraising sales and sales the nonprofits make. The biggest groups of nonprofits that are now exempt are the hospitals. Nonprofit organizations are generally not exempt on purchases that they make.

Chairman Headland: Is there any support to HB 1278?

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

Chairman Headland: Questions? Further testimony in support?

Jackie Hall, Executive Director for Ruth Meiers: Provided written testimony in support. See attachment #3.

Chairman Headland: Questions? Further testimony in support of HB 1278?

Christopher Dodson, Director of the North Dakota Catholic Conference: A healthy society is one that has a partnership and a plurality of private organizations that work with the public sector. We don't rely solely on government and we don't stray into individualism. In order for that to happen there needs to be a healthy environment for nonprofits to exist. For the last several decades and often for very good reason, there have been more burdens placed on the not for profit sector. We used to provide services voluntarily but now we often need professionals for the protection of consumers. Every time you pass something that's a general health and safety requirement adds to the cost of even opening a church and keeping it lit and heated and so on. Our schools and hospitals are exempt but it involves churches, charities, and small organizations to provide the services out there. There's no question it would be beneficial. We hear all the time that the charitable sector should pick up more of providing services to the people. Often that requires recognition that it costs money and more money each year. Not a lot of people realize that not all 501c3s are exempt from sales tax. Our people don't even realize that even though we are member supported. We get the exemption on bibles, textbooks and prayer books but it's often burdensome for the pastors to get the sales tax exemption number and use it.

Chairman Headland: Questions? Further testimony in support?

Murray Sagsveen, President of the North Dakota Association of Nonprofit Organizations: There are 37 nonprofit organizations that are supporting the North Dakota university system to prosper and succeed. The fiscal note is \$28 million. You may think that would have a significant impact on the revenue to North Dakota but this fiscal note really means that \$28 million per biennium could be made available to the nonprofit community throughout North Dakota if this bill would be passed.

Representative Klein: Do you recall when we exempted health and education related systems?

Murray Sagsveen: I've been working with state government since 1973 and I can't remember exactly when that was done.

Representative Klein: That's been in place for many years.

Murray Sagsveen: That's been in place for many many years.

Chairman Headland: Further testimony in support of 1278? Is there any opposition?

Blake Crosby, Executive Director of the North Dakota League of Cities: Provided written testimony in opposition. See attachment #4.

Chairman Headland: Questions? Further opposition to 1278?

Bill Wocken, City Administrator for City of Bismarck but appearing on behalf of Bismarck City Commission today: Provided written testimony in opposition. See attachment #5.

Chairman Headland: Any questions for Mr. Wocken? Is there further opposition for HB 1278? Are there any questions for the tax department? Seeing none we will close the hearing on 1278.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1278
2/9/2015
23495

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to a sales tax exemption for purchases by certain charitable nonprofit organizations.

Minutes:

No attachments.

Vice Chairman Owens: We've been tackling this for several sessions. We're always questioning what is related and what isn't. I just kind find a way around it. I haven't heard anything new from the tax department knowing what would qualify and what wouldn't.

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

Representative Trottier: SECONDED.

ROLL CALL VOTE: 10 YES 4 NO 0 ABSENT
MOTION CARRIES FOR A DO NOT PASS

Representative Toman will carry this bill.

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

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278**

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. Klein Seconded By Rep. Trottier

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) 10 No 4

Absent 0

Floor Assignment Rep. Toman

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

REPORT OF STANDING COMMITTEE

HB 1278: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1278 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1278

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1-19-15
#1 p. 1

Testimony on HB 1278 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 1278, which provides for a sales tax exemption for certain charitable nonprofit organizations.

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.

This bill will allow these nonprofits to be qualified for a certificate of exemption from sales tax from the Tax Commissioner, with one exception. They would not be exempt from sales tax for sales that trigger the "unrelated business income tax," which will be further explained by the next presenter.

You saw a similar bill two years ago. By adding the phrase "unrelated business income tax," HB 1278 makes it clear that not everything done under a nonprofit is sales tax exempt. For example, if a nonprofit has a side business of selling products to supplement their finances, that side business is unrelated to their primary mission and would not be tax exempt.

I can't over-state the importance of charitable nonprofit organizations. In essence, nonprofits are the non-government avenue through which we work to improve our society, help our vulnerable citizens, and promote common good.

Nonprofits primarily survive on donations and grants. However, over the past 14 years since 9/11, the availability of grant funding has decreased dramatically. This has made it very difficult for nonprofits to perform their mission.

This tax credit will allow them to keep more of their funds and put it to work helping people.

Thank you. I urge you to support HB 1278. I welcome your questions.

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Testimony by Jessica Gilbertson, NDANO Executive Director

House Finance & Taxation Committee

In Support of HB 1278

Monday, January 19, 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 1278.

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.

Charitable nonprofits work in every community across our state, and they exist for the good of all North Dakotans. As you consider this legislation, we ask you to reflect on the valuable contributions the nonprofit sector makes every day in the lives of the people of North Dakota and to consider our positive track record of partnering with government to address some of our state's most pressing problems. Charitable nonprofits work to protect and educate children, train the workforce, nurse the sick, support our elders, care for returning soldiers, provide food and shelter, foster faith, elevate the arts, protect natural resources, and more.

There are approximately 3,500 public charities in our state. Most of these nonprofits are small, community-based organizations. In fact, more than 70 percent of the state's charitable nonprofits have annual revenue of less than \$500,000 per year and more than 42 percent have less than \$100,000. This means that, for most charities, limited dollars are available to meet pressing needs.

NDANO supports a sales tax exemption on purchases by charitable nonprofits for two primary reasons. First, we believe that all charitable nonprofits should be treated equally under state law. Currently, some nonprofits are exempt, primarily health and education-related

organizations, while others must pay sales tax. Charitable nonprofits not currently exempt are mostly small and medium-sized community-based nonprofits, such as homeless shelters, churches, museums, and youth groups. Existing state law is confusing, and some businesses believe all nonprofits are exempt from paying sales tax. NDANO often receives invoices that do not include sales tax, so we have to contact the business to let them know we do pay sales tax. Several of our members have also experienced incorrect billing.

Second and most important, a sales tax exemption would provide more funding for mission. As an example, extending the exemption would allow more money to be directed to programming or services that directly serve children and youth, victims of domestic violence, and those with physical limitations or mental health issues, among others. Charitable nonprofits would be able to use their funding to benefit the public and serve North Dakota communities instead of paying sales tax. While this exemption will result in a loss of government revenue, these funds will stay in our state and be spent in communities that depend on nonprofit programs and services. Small charities will likely save only a few hundred dollars per year and this may not seem like much, but for many it means the difference in providing food for those who are hungry or coats for those who are cold.

Nonprofits receive income to operate in a variety of ways, such as charitable contributions; fees for program services, such as art classes or youth camps; and payment for activities that are unrelated to the nonprofit's mission, such as advertising. Revenue received from the last category may be subject to unrelated business income tax, which nonprofits report and pay to the federal government through an annual report called the Form 990. NDANO recognizes that purchases related to unrelated business income should not be included in the charitable sales tax exemption outlined in this bill, and these are excluded through the language on lines 9-11.

As a sector, nonprofits are essential partners with government in meeting the challenges facing our state and ensuring a high quality of life for every North Dakotan. We ask you to support this legislation that will have a significant and positive impact on the ability of nonprofits to serve people and communities in need. We hope that you will agree that a strong

charitable nonprofit sector is vital to the health of North Dakota, and that this is a small step that will make a big difference by providing more money for mission.

NDANO asks for your support for a do pass recommendation on House Bill 1278.

Thank you.

Supporters of House Bill 1278

African Soul, American Heart	Fargo
Bethany Retirement Living	Fargo
Catholic Charities of North Dakota	Fargo
Community College Foundation of Devils Lake	Devils Lake
Dakota Boys and Girls Ranch	Fargo
Global Friends Coalition	Grand Forks
Home on the Range	Sentinel Butte
Legal Services of North Dakota	Bismarck
Minot Area Homeless Coalition	Minot
North Dakota Coalition for Homeless People	Bismarck
North Dakota Safety Council	Bismarck
Prairie Learning Center	Raleigh
Roosevelt-Custer Regional Council	Dickinson
Ruth Meiers Hospitality House	Bismarck
Welcome House, Inc.	Bismarck
Williston Community Library Foundation	Williston



Chairman Headland and the House Finance and Tax Committee, my name is Jaclyn Hall and I am the Executive Director of Ruth Meiers Hospitality House in Bismarck, ND. I am here in support of HB 1190 *and HB 1278*.

As a non-profit organization providing shelter, food and other necessities to our region, the costs of these services are growing at a rapid rate. Last year, our organization provided over 43,000 nights of shelter, 44,000 meals to those in need and over 24,000 pounds of food was given to individuals across our community.

When you serve those in need, the community is very generous. We receive many in-kind contributions that support the services we provide. However, we do utilize cash donations to cover items we lack – toiletries, paper products, items to repair and replace damaged equipment and other things to keep our organization safe and viable. For an organization of our size, I estimate about 125,000 is spent each year that is taxed. If this bill is passed, it would save our organization about \$6,250. That money may be minor to some – but to me it would replace an old washer and dryer in our shelter, purchase cleaning supplies or assist someone with a security deposit or first month rent to get into their own apartment.

Last session I testified in support of this bill. This session, I come before you to consider it again. Ruth Meiers was established to support those in need. We paid over \$150,000 in payroll and property taxes alone in 2014. We contribute not only to the bottom line for the State of ND, but also to assist those struggling to make ends meet.

In closing, this bill is really important to many agencies and non-profits all across the state of ND. The Century Code provides for hospitals, education and state agencies to receive this allowance, but inadvertently omits other non-profits. I think it is time to seriously consider this as a step forward, not a step back.



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Ruth Meiers started providing shelter to seven homeless men on April 21, 1987 in Bismarck. As the Bismarck – Mandan community continues to change, we have grown to provide over 200 emergency shelter beds and 110 affordable housing units along with additional supportive services that include reemployment training, education assistance, support for medical conditions and additional referral based services throughout the region.

Ruth Meiers provides direct services to Burleigh, Morton, Oliver, Mercer McLean, Sheridan, Kidder, Emmons, Grant and Sioux counties in North Dakota. However, as the only homeless shelter between Fargo, ND and Billings, MT, we are growing at an exceptional rate. The current services we provide include:

Emergency Shelter – Shelter to men, women and children each night.

- Men's Emergency Shelter supports 120 men
 - 2012 - 7,252 nights provided to 930 men
 - 2013 - 13,362 nights provided to 1,265 men
 - 2014 - 22,152 nights provided to 1,800 men
- Family Emergency Shelter supports 62 beds for single women, single parents and two parent families
 - 2012 - 4,570 nights to 926 individuals in the family shelter
 - 2013 - 6,136 nights to 518 adults and 3,647 nights to 295 children
 - 2014 - 9,400 nights to 665 adults and 5,261 nights to 353 children

Residential Program – Men's residential program provides 32 men with a 30-90 day case management program to assist the homeless get to stability. Eight of these beds are specific for homeless Veterans in our community.

- 2012 - 5,971 nights to 319 men
- 2013 - 8,534 nights to 439 men
- 2014 - 6,376 nights to 348 men

Stone Soup Kitchen – Open Wednesday, Thursday and Sunday to the public at 305 N 23rd St and serving three meals per day to the homeless at 1100 E Boulevard Ave.

- 2012 - 8,186 meals were served to 2,429 different people
- 2013 - 8,153 meals were served to 2,490 different people
- 2014 - over 45,000 meals served

New Beginnings – A seven unit housing facility for men up to 24 months. Clients transition from shelter after they have permanent income.

Horizons – a 25 bed efficiency apartment system, which provides permanent housing to low income individuals (men and women).

Emergency Food Pantry – The community is eligible to receive support through our



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#333

emergency food pantry within Coordinated Assessment.

- 2012 – over 11,000 pounds of food were given to 427 households
- 2013 – 25,661 pounds of food were given to 749 households
- 2014 – 24,000 pounds of food were given to over 700 households

Coordinated Assessment –Coordinated Assessment provides referral and services to those at risk of homelessness. Referral services include utility assistance, rent assistance, security deposits, medication assistance, food baskets, identification services and housing vouchers. This service is provided when the emergency shelter is open during the day to the community and every day to our clients.

Joanne's Clinic –Joanne's Clinic provides basic and preventative medical services to those without insurance. Open two days a week, services include immunizations, wound care, colds and flu and other basic needs. Prescription coverage is also available.

Baby Boutique – Located at Bismarck/Burleigh Public Health, the Baby Boutique rewards low income mothers to care for themselves and their children. As mothers receive care and education, they accumulate points towards clothing, supplies and formula.

In the fall of 2013, Ruth Meiers acquired a 4-acre campus at 1100 E Boulevard Ave in Bismarck. This facility has undergone extensive renovation to enable us to serve the homeless and those at risk, as well as provide other agencies the ability to outreach to those in need.

The following services were added this fall:

Affordable Housing: Ruth Meiers acquired 40 units and renovated to construct 45 additional affordable housing apartments. They include efficiency, one and two bedroom units. Apartments will be rented at current low income voucher rents; utilizing a maximum of 30% of the clients income. This rent will be between \$400 - \$1050 per month.

VA Supportive Housing: Ruth Meiers supports the only permanent supportive housing vouchers for homeless Veterans in central and western North Dakota. The contract also includes funding for eight Veteran crisis beds to support veterans in need.

Children's Learning Center: A children's learning center will provide preschool and after school tutoring and study time. It will ensure children are safe and receiving the support needed to end the cycle of homeless in their family.

Outreach: Ruth Meiers will provide 10 outreach offices to support referring agencies who provide assistance within our facility. This will include a day program, seminars and other talks to educate and assist our clients.

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January 19, 2015

House Finance and Taxation Committee
HB 1278

CHAIRMAN HEADLAND AND MEMBERS OF THE COMMITTEE:

For the record my name is Blake Crosby. I am the Executive Director of the North Dakota League of Cities representing the 357 cities across the state.

Sales tax exemption bills come up every session and the League's position continues to be in opposition to those exemptions. This is the proverbial Pandora's box. If you single out one business activity or one type of organization, where does it end? What makes that business or organization any more special than another? You start down this path and there will be no end in sight. The fairest sales tax is one where everybody pays.

On behalf of the North Dakota League of Cities, I ask for a Do Not Pass on HB 1278.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.

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January 19, 2015

House Finance and Tax Committee

HB1278

Mr. Chairman and members of the House Finance and Tax Committee;

My name is Bill Wocken. While I am City Administrator for the City of Bismarck I am appearing on this bill on my own behalf since the Bismarck City Commission has not yet had opportunity to consider this bill specifically.

However, the Commission has a long history of opposition to bills seeking tax exemptions. It has almost without exception expressed its concern for measures that advantage one group of taxpayers over another. The city has a concern that exemptions to taxes can, if not carefully considered, become the rule.

HB 1278 seeks to exempt from the sales tax purchases by tax exempt entities. There are a great many tax exempt organizations and the list increases regularly. While the exemption sounds simple and straightforward it has far reaching implications.

The more exemptions that are allowed the more those in the non-exempt group will pay and the stronger the temptation will become to request another exemption for themselves. Decreasing proceeds from the tax may even drive some to suggest raising the tax to recover revenue lost to the exemptions. Perhaps the items meant to be funded by the tax may even need to be subsidized by another funding source, like property taxes.

Please carefully consider all requests for exemptions from taxes like the proposal contained in this bill. I would ask you for a "Do Not Pass" recommendation on this measure.

Bill Wocken