

FISCAL NOTE
Requested by Legislative Council
01/07/2021

Bill/Resolution No.: HB 1137

- 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
Revenues			\$(1,000,000)			
Expenditures						
Appropriations						

- 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
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 1137 will expand the tax law governing the income tax credits allowed for making charitable contributions to nonprofit private schools in North Dakota, and remove the sunset.

- 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.*

Current income tax law provides for three separate income tax credits for making charitable contributions to nonprofit private schools in North Dakota—one credit for nonprofit private primary schools, a second credit for nonprofit private high schools, and a third for nonprofit private colleges.

Section 1 of the bill will change the law governing the credits to reinstate provisions added by the 2019 North Dakota Legislature that expired at the end of the 2020 tax year. The changes made in 2019 expanded the law by (1) loosening up the limitation on the credit based on a percentage of the tax liability by increasing the percentage from 20% to 25% and (2) allowing the credits to individuals for direct contributions. (Prior to 2019, individuals could not qualify for the credits by making direct contributions; they could, however, claim credits they received as owners of a partnership or S corporation that made qualifying contributions.) In addition to reinstating the changes made in 2019, the bill will increase the tax liability limitation percentage from 25% to 50%. These changes will have a fiscal impact.

Based on data from the 2019 state income tax returns, the first year the 2019 expansion provisions took effect, the credits claimed for contributions to nonprofit private primary schools, high schools, and colleges increased by 263%, 175%, and 195%, respectively. The increase in the tax liability limitation percentage from 25% to 50% is expected to further increase the amount of credits claimed for those taxpayers whose claimed credits were limited by the percentage, as well as potentially increasing the use of the credit.

If it is assumed that the enactment of this bill will result only in a continued level of giving indicated by the 2019 tax return data, the increase in the tax liability limitation percentage may result in the fiscal effect shown above. This should be considered the minimum amount of reduction in state general fund revenues for the 2021-23 biennium. Any growth in the use of the credit, due to expanded awareness or more 'in-person' solicitation of funds as covid restrictions are loosened would result in a negative fiscal impact higher than the amount estimated here. This amount shown should be considered the minimum impact; additional use of the credit would expand this negative fiscal impact by an unknown amount.

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 1137 is expected to reduce state general fund revenues in the 2021-23 biennium by a minimum of \$1 million.

- 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.*

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