

FISCAL NOTE
Requested by Legislative Council
01/12/2015

Bill/Resolution No.: HB 1190

- 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			\$(3,650,000)	\$(35,000)		
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 1190 provides a sales tax exemption for gross receipts from educational, religious, and charitable activities.

- 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 1190 is estimated to reduce state general fund and state aid distribution fund revenues by \$3 million to \$5 million during the 2015-17 biennium. The midpoint of this range - \$4 million - is shown in 1A above.

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 1190

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1190
1/19/2015
22122

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill relating to a sales tax exemption for gross receipts from educational, religious, or charitable activities.

Minutes:

Attachment #1, 2, 3

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

Representative Bellew: Introduced bill. Provided written testimony. See attachment #1. We struck the language in section two of the bill. I'm asking the committee to reinstate that because that part of the bill did not pertain to what I'm trying to do; that just exempts charitable organizations from collecting sales tax. That was not my intent. I eliminated all sales tax in section one of the bill. However, after talking with the charitable organizations and the tax department we thought a more appropriate figure would be anything over \$50,000 instead of \$10,000. If you put the \$50,000 in then clubs like the Minot Sertoma Club and other fraternal organizations that give all their money back to charities would not have to pay a sales tax. That's the purpose of this bill. It's not to decrease the tax collections in the state; it's to help out these local charities.

Chairman Headland: Questions?

Representative Steiner: Is there a definition on what is charitable in law so that it doesn't encompass organizations that you might not think is charitable but by definition they meet that?

Representative Bellew: I would hope so but I don't know. I didn't look it up so I can't answer that.

Vice Chairman Owens: You gave us the tax information from the Sertoma Club. Out of that event you said they donated \$8,000 or something like that?

Representative Bellew: That's correct. That was just to one organization they donated \$8,000 to the Parents of Hearing Impaired Students. The rest of the money goes in to a clearing account and their board decides who gets that money. It's all charitable.

Chairman Headland: Testimony in support of 1190?

Jessica Gilbertson, Executive Director of the North Dakota Association of Nonprofit Organizations: Provided written testimony. See attachment #2.

Chairman Headland: Are there any questions? Is there any further support for HB 1190? Is there any opposition?

Blake Crosby, North Dakota League of Cities: I will address Representative Steiner's question regarding the 501c3. I'm reading from the IRS information online for exempts and requirements-501c3 organizations. It says an organization must be organized and operated exclusively for exempt purposes set forth in 501c3. (Continued reading the IRS information) This is difficult testimony as I'm in the Rotary Club. If I raise over x amount of money is that small amount of sales tax really going to kill a project? I don't think so. There's a lot of softness in here. I'm not sure we can legislate this appropriately without having a bill that's many pages long. With all respect to the work these charitable organizations do and the people they serve I would request a do not pass.

Chairman Headland: Questions? Is there any further testimony in opposition to 1190?

Bill Wocken, City Administrator for the City of Bismarck but here on behalf of himself: Provided written testimony in opposition. See attachment #3.

Chairman Headland: Is there any further opposition to HB 1190? Are there any questions for the tax department? Seeing none we will close the hearing on HB 1190.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1190
1/26/2015
22558

- 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 gross receipts from educational, religious, or charitable activities.

Minutes:

No attachments

Chairman Headland: Committee, any direction on this bill?

Representative Klein: I will make a motion for a do not pass.

Representative Dockter: Seconded.

Representative Strinden: Isn't this just a clarification of existing tax law?

Chairman Headland: I think you're confusing that with a bill we passed out and already passed on the floor. I don't recall right now which bill that was. There is a fiscal note associated with this bill and it will have \$3.7 million negative impact on state and local revenues. I'm going to support the do not pass.

Representative Steiner: From my notes, the tax department said it was not defined on educational and that the bill was a little general. I think we're opening a can of worms with this because the definitions are not specific. I'm going to go with the do not pass.

Chairman Headland: Any other discussion?

Roll call vote: 9 yes 4 no 1 absent
Motion carries for a do not pass.

Representative Steiner will carry this bill.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1190
2/10/2015
23572

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A bill relating to a sales tax exemption for gross receipts from educational, religious, or charitable activities.

Minutes:

Attachment #1

Chairman Headland: We brought this bill back at the request of the sponsor. He asked us to amend it but he never provided us with an amendment so we sent it out with a do not pass. He would now like us to remove the overstrike and change \$10,000 to \$50,000 on line twelve. See attached proposed amendment 15.0353.01001 dated January 29, 2015. Attachment #1. This would pertain to only one event; a Sertoma event.

Representative Strinden: Wants to make a motion to not accept the amendment.

Chairman Headland: If that's the committee's wishes we don't have to make any motions.

Representative Froseth: Do you have any idea what that would do to the fiscal note?

Chairman Headland: I've got an idea here but it's not an official note from Kathy Strombeck. It would bring the fiscal note down to about that \$10,000 they generate at the one event. I think it's kind of asking a lot for us to change policy so it's designed to help one organization.

Representative Strinden: The way I understand the amendment is right now in code gross receipts from taxable sales in excess of \$10,000 are exempt. We would then basically be taking away an exemption from nonprofit and educational and religious organizations without having a hearing. I feel like we would hear no end to it.

Vice Chairman Owens: Actually you wouldn't be taking it away from them; you would be increasing it from \$10,000 to \$50,000.

Representative Dockter: I don't like tax policy that carves out for one organization so I'm going to oppose this bill.

Chairman Headland: Is there anyone who would like to move Representative Bellew's proposal? Seeing none, we have the original bill before us. Committee decided to keep the same roll call vote as January 26, 2015.

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

Representative Dockter: SECONDED.

**ROLL CALL VOTE: 9 YES 4 NO 1 ABSENT
MOTION CARRIES FOR A DO NOT PASS**

Representative Steiner will carry this bill.

Date: 1-26-15
 Roll Call Vote #: 5

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1190**

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. Doerflinger

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	AB				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 9 No 4

Absent 1

Floor Assignment Rep. Steiner

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

Date: 2-10-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1190

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. Dockter

Jan. 26, 2015 ROLL CALL VOTE

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	AB				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 9 No 4

Absent 1

Floor Assignment Rep. Steiner

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

REPORT OF STANDING COMMITTEE

HB 1190: Finance and Taxation Committee (Rep. Headland, Chairman) recommends DO NOT PASS (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1190 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1190: Finance and Taxation Committee (Rep. Headland, Chairman) recommends DO NOT PASS (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1190 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1190

HB 1190
1-19-15
#1 p.1

Sales Tax Exemption for Charitable Organizations

The purpose of the bill is to amend subsection 4 of section 57-39.2-04 of the NDCC. If passed, all educational, religious, and charitable organizations would be sales tax exempt if all the gross receipts are used for educational, religious, or charitable purposes.

In September 2014 Sertoma Club of Minot held a fundraising event. This charitable organization was charged sales tax \$351.45 on monies over \$10,000 according to state law. The secretary of the club called and spoke to the tax department on this issue and what could be done about this. He was told to contact a legislator. He contacted me and now you have this bill before you.

The Sertoma club is dedicated to giving all funds raised to hearing impaired students and youth activities throughout the Minot region. All club members volunteer their time to work for these events. This insures that the charitable organization receives all the money made from a fundraiser.

Under the current law, any sales over \$10,000 would be taxed at the current state and local sales tax rates. If this bill were to pass, all funds would go to the designated charitable organization instead of the state and local entities taking the money through the sales tax. I urge passage of HB 1190. Thank you.

#1 P.2

Minot Sertoma

SERvice TO Mankind in Minot since October 2, 1959

What We Do

Various Projects from Minot Sertoma Club

#19.3

Minot Sertoma

SERVICE TO Mankind in Minot since October 2, 1959

About the Sertoma Club of Minot

50 Years of Service to Mankind

A member of a national non-profit organization dedicated to service.

Areas of Interest/Service

Speech and Hearing Disorders

Youth Related Activities

Heritage

Contributions

Annually contribute \$40,000-\$50,000 to the Minot area

Membership

79 members representing a cross-section of business and governmental agencies in Minot.

Accomplishments

Funded a Chair at Minot State University in Education of the Deaf

Endowment at MSU for scholarships to students majoring in Communication Disorders/Deaf Ed.

Keith White Sertoma Softball Complex

Jack Hoeven youth baseball complex field donation

ND Medal of Honor Memorial

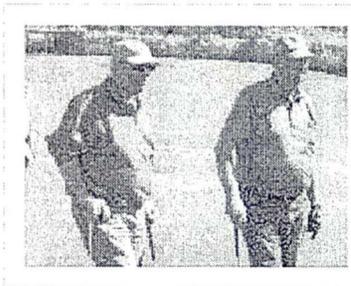
Minot Vocational Workshop annual fund drive

Fund Raising Activities

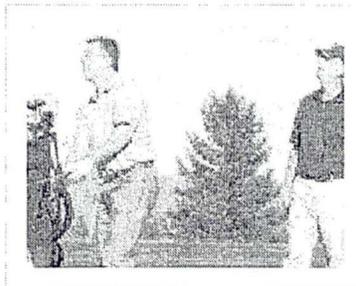
Christmas in the Park

Norsk Hostfest Raffle

#1 p.4



Golf outing



Golf Outing

Sertoma Club Press Release – \$36,000 donation to MSU Speech and Hearing



#1 p.5

One Time Remittance Form

Please check appropriate return - See page 2 for instructions

- Voluntary Sales and Use Tax Return
- Use Tax Return
- Watercraft Use Tax Return (Invoice must be attached)

For Office Use Only
Acct. # _____

Do not use this form if you hold an active ND Sales and Use Tax Permit

Name Minot Sertoma Club	SSN or FEIN 456013604	
Address PO Box 1183	Phone (701) 858-3596	
City, State Minot, ND	Zip Code 58702	Date of Sale/Purchase 9/5/2014

New mobile homes, new farm machinery and new farm irrigation equipment are taxed at 3 percent. All other goods are taxed at 5 percent.

	Column A 3% SALES & PURCHASES	Column B 5% SALES & PURCHASES
1. Total Sales (do not include tax) -----		16,390.00
2. Purchases Subject to Use Tax -----		0.00
3. Total Nontaxable Sales -----		10,000.00
4. Taxable Balance (Total of lines 1 and 2 minus line 3) -----		6,390.00
5. State Tax (Multiply line 4 by the ND tax rate) ...		319.50
6. Total State Tax (Total of line 5 Column A and Column B -----		319.50
7. Local Option Sales & Use Tax		
a. Local Code 505 City or County Name Ward		31.95
b. _____		
c. _____		
d. _____		
8. Net Local Option Tax Due (Total of lines 7a, 7b, 7c and 7d) -----		31.95
9. Total Due With Return (Add Lines 6 and 8) -----		351.45

Make check or money order payable to North Dakota Tax Commissioner

I declare that this return has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return.

Taxpayer Signature Neil Scharpe Date 10/24/2014 Title Club Secretary

Contact Person (Please print or type) Neil Scharpe Contact Phone Number (701) 858-3596

For Watercraft Use Tax Only - please initial the Authorization box below

Authorization to Disclose Tax Information: The Tax Commissioner is hereby authorized to disclose confidential tax information regarding the sale of this watercraft to the North Dakota Game and Fish Department to assist in the licensing of this watercraft.

Signature of Tax Dept. Representative _____ Date Use Tax Paid _____

For Privacy Statement, please see Page 3 of instructions.

Please Mail To: Office of State Tax Commissioner
Sales & Special Taxes
600 E. Boulevard Ave. Dept. 127
Bismarck, ND 58505-0599

Please Do Not Write In This Space

Testimony by Jessica Gilbertson, NDANO Executive Director

House Finance & Taxation Committee

In Support of HB 1190

Monday, January 19, 2015

HB 1190
1-19-15
2 p.1

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 1190 with the proposed amendment by Representative Bellew.

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.

HB 1190, with the proposed amendment, represents an opportunity to help charitable nonprofits keep more money for their missions. Nonprofits in today's environment of rising demand for services have to be increasingly creative in the ways that they fundraise. Many nonprofits host special events as a way to raise awareness for their organizations, as well as funds for their missions.

North Dakota Century Code currently requires a charitable nonprofit to pay taxes on ticket sales over \$10,000 if the event is held at a publicly owned venue. Our understanding is that the law was crafted this way to target for-profit event planners who were abusing the tax exempt status of nonprofits to avoid paying taxes on for-profit events. While we recognize why the law was written as it is and fully support its intent, we feel that the limit could be raised to \$50,000 and still serve its intended purpose. For-profit entities, such as concert planners, should pay taxes on the events they hold at public venues. However, activities that are held with the sole intent to raise money for charitable purposes shouldn't be subjected to the same taxes.

NDANO encourages a do pass recommendation on the amended version of House Bill 1190.

HB 1190
1-19-15
#3

January 19, 2015

House Finance and Tax Committee

HB1190

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 1190 seeks to exempt from the sales tax charitable activities like county fairs, educational activities, religious activities, school district events and non-profit art activities. There are a great many events one could argue might fit into these categories. These exemptions will have far reaching results and difficulty in interpretation.

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

15.0353.01001
Title.

Prepared by the Legislative Council staff for
Representative Bellew
January 29, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1190

Page 1, line 2, after "for" insert "certain"

Page 1, line 3, after "activities" insert "held in a publicly owned facility"

Page 1, line 11, remove the overstrike over "~~The exemption specified in this subsection does not apply to:~~"

Page 1, line 12, remove the overstrike over "~~(1) — Gross receipts from taxable sales in excess of~~"

Page 1, line 12, after "ten" insert "fifty"

Page 1, line 12, remove the overstrike over "~~thousand dollars per~~"

Page 1, remove the overstrike over lines 13 through 17

Renumber accordingly