

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/24/2019**

Amendment to: 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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 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).*

Engrossed HB 1276 changes the income tax law governing the deduction allowed to individuals who suffer a stillbirth.

- 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.*

The stillborn child income tax deduction was created in 2017. The deduction, which is available to an individual who gives birth to a stillborn child, is equal to the federal dependency exemption amount under federal income tax law. The federal Tax Cuts and Jobs Act passed at the end of 2017 changed the federal dependency exemption amount to zero for the 2018 through 2025 tax years, effectively making the stillborn child deduction equal to zero for the same tax years. For this reason, the state deduction was available only for the 2017 tax year.

Section 1 of Engrossed HB 1276 amends the existing law to replace the language referencing federal dependency exemption with the amount of \$4,150, which is the amount the federal dependency exemption would have been absent the federal legislation. Starting with the 2019 tax year, this amount is to be adjusted annually for inflation.

Section 2 of the bill makes the \$4,150 deduction effective retroactively to the 2018 tax year.

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, Engrossed HB 1276 will have no fiscal impact for the 2019-21 biennium. The bill reinstates a deduction that was already in the law for the previous 2017-19 biennium. The forecast was not adjusted for the removal of this deduction; its reinstatement will not change revenues.

- 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:** 01/16/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/07/2019**

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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			\$(154,500)			
<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.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 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).*

HB 1276 creates a new income tax credit for individuals who suffer a stillbirth.

- 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 allows an income tax credit to an individual who suffers a stillbirth, for which a fetal death record has been filed with the North Dakota Health Department’s Division of Vital Records.

Section 3 of the bill provides for retroactive application of the credit, making it available for tax years 2018 and after.

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.*

The provisions of the bill allow an income tax credit equal to \$2,000 for a stillbirth occurring during the tax year, starting with the 2018 tax year. Beginning with the 2019 tax year, the \$2,000 credit amount must be adjusted annually for inflation using the consumer price index for urban consumers in the Midwest region, as determined by the U.S. Department of Labor.

Based on statistics from the North Dakota Division of Vital Records, the number of stillbirths for the years 2009 through 2017 ranged from 44 to 75 per year. The maximum tax credit allowed for each stillbirth in a tax year is \$2,000; however, most individuals have a tax liability less than \$2,000.

If enacted, HB 1276 is expected to reduce state general fund revenues by an estimated amount between \$114,000 and \$195,000 for the 2019-21 biennium. The midpoint of this range is -\$154,500, as shown above in 1A.

- 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:** 01/16/2019

**2019 HOUSE FINANCE AND TAXATION**

**HB 1276**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1276  
1/22/2019  
31196

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

### Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for a birth resulting in stillbirth; and to provide for retroactive application.

### Minutes:

Attachment 1

**Chairman Headland:** Opened hearing on HB 1276.

**Representative Koppelman:** Introduced bill. This is a bill to reenact the bill we did last session. This bill will give the tax benefit to the parents of the stillborn child. The bill passed last session referenced the federal tax code and so the reference is no longer valid. When a family suffers a stillborn birth they have the same costs of the birth as well as the cost of the funeral. They would get this benefit for a year, not an ongoing benefit as it would be for a living child in your home.

**Chairman Headland:** Is there further support of HB 1276?

**Rebecca Matthews, resident of Bismarck:** Distributed written testimony, see attachment #1. Ended testimony at 5:07.

**Chairman Headland:** Further support? Any opposition? Neutral testimony?

**Representative B. Koppelman:** We put this into effect last biennium. Do you know how many people claimed this in the tax year 2018?

**Joe Becker, Tax Department:** Yes. Records from 2009-2017 shows stillbirths ranged anywhere from 44-75 per year. We assumed an average number of around 58 for the fiscal note at an average tax of about \$866.00.

**Representative B. Koppelman:** How many people actually claimed this in 2018?

**Joe Becker:** I would have to check our data base. Our current law is actually a tax deduction not a credit so this will be more beneficial than the one under current law.

**Representative B. Koppelman:** Are you suggesting this does something different than what the previous biennium's law intended under the old tax code?

**Joe Becker:** No, that's not what I'm saying. The current law is based on the dependent's exemption amount allowed under federal law. Federal law changed that amount to zero making the state deduction obsolete. This bill has the same basis for benefit but the amount of the benefit is different; it is no longer a deduction from income, it's a tax credit or dollar for dollar offset against the tax. It's a \$2,000 credit for what would have been a \$4,000 deduction.

**Representative Dockter:** We don't have personal exemptions anymore and that's why we have to change it to a credit in order to get it. The credit updates to what the federal law changed to.

**Chairman Headland:** What would we have to do to zero out the fiscal note?

**Joe Becker:** The fiscal note we offered last session based on the deduction was about \$8,000 for the biennium.

**Chairman Headland:** There's no way to change it to a deduction?

**Joe Becker:** Certainly. We could word it to read "a deduction equal to" so we would have to make some changes.

**Chairman Headland:** Are there any other questions? We will close the hearing.

# 2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1276  
1/23/2019  
31318

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

## Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for a birth resulting in stillbirth; and to provide for retroactive application.

## Minutes:

Attachments 1-2

**Chairman Headland:** This is the tax credit for stillbirths. Let's take a look at this.

**Representative B. Koppelman:** Distributed proposed amendment 19.0919.01001, see attachments 1-2. The bill he brought before us created a tax credit of \$2,000 instead of a tax deduction of \$2,000. That person would probably have to make \$155,000-160,000 to fully realize a \$2,000 tax credit within one year. It would carry over up to three years and I don't think that was the intent. This should erase the fiscal note. **MADE A MOTION TO ADOPT THE AMENDMENT.**

**Representative Fisher: SECONDED**

**Chairman Headland:** Discussion? I think it more clearly defines the intent of the bill sponsor.

**VOICE VOTE: MOTION CARRIED**

**Chairman Headland:** We have amended bill before us.

**Representative Dockter: MADE A MOTION FOR A DO PASS AS AMENDED**

**Representative Mitskog: SECONDED**

**Chairman Headland:** Discussion?

**ROLL CALL VOTE: 14 YES 0 NO 0 ABSENT  
MOTION CARRIED**

**Representative Fisher will carry this bill.**

DA 1/23/19

19.0919.01001  
Title.02000

Adopted by the Finance and Taxation  
Committee

January 23, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1276

Page 1, line 1, remove "create and enact a new section to chapter 57-38 and a new subdivision to"

Page 1, line 2, replace "subsection 7 of section 57-38-30.3" with "amend and reenact subdivision q of subsection 2 of section 57-38-30.3"

Page 1, line 3, replace "credit" with "deduction"

Page 1, replace lines 5 through 20 with:

**"SECTION 1. AMENDMENT.** Subdivision q of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- q. ~~Reduced by an amount equal to the exemption available for a qualifying child under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended, four thousand one hundred fifty dollars for taxable year 2018,~~ for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a fetal death certificate has been filed under section 23-02.1-20. For taxable years beginning after December 31, 2018, the deduction amount must be adjusted annually on January first of each year by the cost of living adjustment. For purposes of this subdivision, the "cost of living adjustment" means the percentage increase in the consumer price index for all urban consumers in the midwest region as determined by the United States department of labor, bureau of labor statistics, for the most recent year ending December thirty-first. The exemption may only be claimed in the taxable year in which the stillbirth occurred.

Re-number accordingly

Date: 1-23-19  
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1276

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 19.0919.01001

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. Koppelman Seconded By Rep. Fisher

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voice Vote = Motion carried*  
*Replace credit with deduction.*

Date: 1-23-19  
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1276

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 19.0919.01001

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. Dockter Seconded By Rep. Mitskog

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt	✓				
Representative Fisher	✓				
Representative Hatlestad	✓				
Representative Kading	✓				
Representative Koppelman	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Fisher

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

**REPORT OF STANDING COMMITTEE**

**HB 1276: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1276 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 57-38 and a new subdivision to"

Page 1, line 2, replace "subsection 7 of section 57-38-30.3" with "amend and reenact subdivision q of subsection 2 of section 57-38-30.3"

Page 1, line 3, replace "credit" with "deduction"

Page 1, replace lines 5 through 20 with:

**"SECTION 1. AMENDMENT.** Subdivision q of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- q. Reduced by an amount equal to the exemption available for a qualifying child under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended, four thousand one hundred fifty dollars for taxable year 2018, for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a fetal death certificate has been filed under section 23-02.1-20. For taxable years beginning after December 31, 2018, the deduction amount must be adjusted annually on January first of each year by the cost of living adjustment. For purposes of this subdivision, the "cost of living adjustment" means the percentage increase in the consumer price index for all urban consumers in the midwest region as determined by the United States department of labor, bureau of labor statistics, for the most recent year ending December thirty-first. The exemption may only be claimed in the taxable year in which the stillbirth occurred."

Re-number accordingly

**2019 SENATE FINANCE AND TAXATION**

**HB 1276**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Finance and Taxation Committee**  
Lewis and Clark Room, State Capitol

HB 1276  
2/27/2019  
Job #32900

- Subcommittee  
 Conference Committee

Committee Clerk: Alicia Larsgaard

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subdivision q of subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax deduction for a birth resulting in stillbirth; and to provide for retroactive application.

## Minutes:

Attachments: 0

**Chairman Cook:** Called the hearing to order on HB 1276.

**Representative Koppelman, District 13, West Fargo:** This bill passed unanimously both in committee and on the floor of the House. This is a fix it bill. Last session, we had a bill that dealt with giving the same tax break to families that have a still born child that they would get if that child had lived. The way the legislative council wrote that bill is that they referenced federal law. Part of the law was repealed and changed with the federal tax law bill that passed. I wished our legal authorities at legislative council wouldn't do things that way. I asked them to rewrite it and fix it. This simply puts this into law with no reference to federal law. I will be happy to stand for questions.

**Chairman Cook:** Further testimony in support of the bill? Any opposed? Any Neutral? Tax Department will you come up and answer questions please?

**Matt Peyerl, Tax Department:** I will be happy to answer any questions the committee may have.

**Chairman Cook:** I assume that we are amending the personal income tax code here?

**Matt Peyerl:** Yes. This is a deduction on your personal income tax return. It was passed in 2017. It was a deduction on your 2017 return that was available. The tax jobs act took away the personal exemption for everyone. Instead of taking it away it just reduced it to zero for 2018 until 2025. It could pick up again in 2025. For 2018 it was reduced to 0. This bill will reinstate it for 2018 to be the deduction it would have been if we weren't linked to that federal change that took it from \$4,150 down to zero.

**Chairman Cook:** \$4,150 is the amount of the deduction that they got before?

**Matt Peyerl:** I believe that is correct. It is rooted in the 1986 federal law of \$2,000 with an annual inflation adjustment which made it now \$4,150. Now, it makes it \$4,150 for 2018 with an inflator for each subsequent year. It will be that or slightly more for 2019 and then each year going forward which mirrors what the federal law has done for the last 25 years.

**Chairman Cook:** Any further questions for Matt? Hearing none, we will close the hearing on HB 1276.

**Senator Kannianen: Moved a Do Pass on HB 1276.**

**Senator Meyer: Seconded.**

**Chairman Cook: Any Discussion?**

**A Roll Call Vote Was Taken. 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Meyer will carry the bill.**

Date: 2-27-19  
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1276**

Senate 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 Kannianen Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Meyer

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

**REPORT OF STANDING COMMITTEE**

**HB 1276, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1276 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**HB 1276**

#1  
HB 1276  
1-22-19

Testimony in Favor of HB1276  
House Finance and Taxation

Chairman Headland and members of the House Finance and Taxation committee my name is Becky Matthews. I am a resident of Bismarck and I am here to speak in favor of HB 1276.

In June of 2007 I joined a club no one wants to belong to. I delivered stillborn twins at 20 weeks 6 days gestation. Trying to save our babies we had many tests and the cost of travel to the Fetal Care Center in Cincinnati. Even if your child never takes a breath on this earth those medical and hospital bills must be paid.

In addition to the medical costs we had the financial burden of a burial plot, funeral arrangements and all the things that go with that.

Many families I know plan for their little one to come home by setting up a nursery, getting a car seat and stroller and accruing all the costs to bring baby home. Sadly they lost their babies to still birth

You may see the tax credit only as a financial assistance to help offset in a small way the financial costs of a stillbirth. That of course is true and very helpful. However, the state of ND also makes another very important statement to parents that their baby existed and valued. That even though that baby never got to go home or leave the hospital that their life in their mother's womb mattered.

Looking through the bill it appears that this is for deliveries at 20 weeks or after. I would challenge you to consider discussing that gestational time frame. An option would be to consider stillbirths that result in an admission to the hospital. But I would be happy to hear other options presented by the committee.

Thank you for considering a bill that supports families that are living a nightmare. We cannot change the families grief, but we can acknowledge that baby. As the mom to Anna and Emily even 11 years later it means the world to me when others acknowledge their life.

#1  
HB 1276  
1-23-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1276

Page 1, line 1, replace “create and enact a new section to chapter 57-38 and a new subdivision to” with “amend and reenact subdivision of subsection 2 of section 57-38-30.3”

Page 1, line 2, remove “subsection 7 of section 57-38-30.3”

Page 1, line 3, replace “credit” with “deduction”

Page 1, replace lines 5 through 17 with:

**“SECTION 1. AMENDMENT.** Subdivision q of subsection 2 of section 57-38-30.3 is amended and reenacted as follows:

- q. Reduced by an amount equal to ~~the exemption available for a qualifying child under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended, four thousand one hundred fifty dollars for taxable year 2018,~~ for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a fetal death certificate has been filed under section 23-02.1-20. For tax years beginning after December 31, 2018, the deduction amount must be adjusted annually on January 1 of each year by the cost of living adjustment. For purposes of this subdivision, “cost of living adjustment” means the percentage increase in the consumer price index for all urban consumers in the Midwest region as determined by the United States department of labor, bureau of labor statistics, for the most recent year ending December thirty-first. ~~the~~The exemption may only be claimed in the taxable year in which the stillbirth occurred.”

Page 1, remove lines 18-20

Re-number accordingly

**SECTION 1. AMENDMENT.** Subdivision q of subsection 2 to section 57-38-30.3 is amended and reenacted as follows:

#2  
HB 1276  
1-23-19

- q. Reduced by an amount equal to four thousand one hundred fifty dollars for taxable year 2018, for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a fetal death certificate has been filed under section 23-02.1-20. For tax years beginning after December 31, 2018, the deduction amount must be adjusted annually on January 1 of each year by the cost of living adjustment. For purposes of this subdivision, "cost of living adjustment" means the percentage increase in the consumer price index for all urban consumers in the Midwest region as determined by the United States department of labor, bureau of labor statistics, for the most recent year ending December thirty-first. The exemption may only be claimed in the taxable year in which the stillbirth occurred."