

Report of the
NORTH DAKOTA LEGISLATIVE COUNCIL

Submitted to the
North Dakota Secretary of State
Under North Dakota Century Code Section 16.1-01-17
Monday, September 12, 2022

BACKGROUND

In 2004, the electorate of this state approved a constitutional amendment to Section 2 of Article III of the Constitution of North Dakota which authorized the Legislative Assembly to provide by law for a procedure through which the Legislative Council may establish an appropriate method for determining the fiscal impact of an initiative measure and for making the information regarding the fiscal impact of the measure available to the public.

In 2005, the Legislative Assembly enacted North Dakota Century Code (NDCC) Section 16.1-01-17, which requires the Legislative Management to hold hearings, receive public testimony, and gather information from agencies, institutions, or departments on the estimated fiscal impact of an initiated measure. At least 30 days before the public vote on the measure, the Legislative Council is to submit a statement of the estimated fiscal impact of the measure to the Secretary of State. Within 30 days of the close of the 1st complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the Legislative Council are to submit a report to the Legislative Council on the actual fiscal impact for the 1st complete fiscal year resulting from the provisions of the initiated measure and a comparison to the estimates provided to the Legislative Council, and the Legislative Council is to issue a report of the actual fiscal impact of the initiated measure.

Two initiative measures, one relating to term limits for the Governor and members of the Legislative Assembly and another relating to the legalization and regulation of cannabis, qualified for the ballot for the general election on Tuesday, November 8, 2022.

The Legislative Council followed the procedure required by statute, which is similar to the procedure for obtaining fiscal impact information which the Legislative Assembly follows during legislative sessions. The state agency determined to have either the best information on the impact of a measure or the primary responsibility for compiling and maintaining the information needed was asked to prepare a fiscal note and present its findings at a meeting held by the Legislative Management on September 12, 2022.

**INITIATED CONSTITUTIONAL MEASURE NO. 1 -
TERM LIMITS FOR THE GOVERNOR AND LEGISLATORS**

The initiated measure relating to term limits for the Governor and legislators would create a new article to the Constitution of North Dakota. The measure would prohibit an individual from serving as the Governor for more than 2 terms and prohibit an individual from serving more than a cumulative period of 8 years as a member of the House of Representatives and a cumulative period of 8 years as a member of the Senate. An individual's service in the House of Representatives or the Senate or election to the office of the Governor before January 1, 2023, does not count against the term limits provided in the measure. The measure would prohibit a Senator or Representative from serving the full or remaining portion of the member's term once a member has served, after January 1, 2023, a cumulative total of 8 years in the member's respective chamber. The measure would restrict future amendments to the measure to amendments initiated by citizens through an initiated constitutional measure.

The Legislative Council presented information on the estimated fiscal impact of this measure. A copy of the fiscal note submitted by the Legislative Council is attached as Appendix A.

Statement of Estimated Fiscal Impact of the Measure

The constitutional measure will become effective on January 1, 2023. The fiscal note prepared by the Legislative Council estimates no fiscal impact of this measure.

**INITIATED STATUTORY MEASURE NO. 2 -
LEGALIZATION AND REGULATION OF CANNABIS**

The initiated measure relating to the legalization of cannabis and related regulation would create NDCC Chapter 19-24.2 to allow for the possession, use, production, processing, and sale of cannabis by individuals who are 21 years of age or older. The measure would also direct the state to regulate and register adult-use cannabis production, businesses, dispensaries, and their agents and permit an individual to possess a specified amount of

cannabis product. The measure would allow an individual who is 21 years of age or older to possess 1 ounce [28.35 grams] of adult-use cannabis, 4 grams of an adult-use cannabinoid concentrate, 500 milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product, and three cannabis plants and the cannabis produced by the plants if the cannabis produced is kept at the same location as the plant.

The measure would subject an individual who possesses, produces, or without consideration, delivers, distributes, or dispenses to an individual who is at least 21 years of age more than the allowable amount of cannabis but not more than twice the allowable amount of cannabis to a fine not to exceed \$300. The measure would create a Class C felony offense for a dispensary or adult-use cannabis agent who distributes adult-use cannabis products to an individual who the agent knows is under 21 years of age or in an amount the agent knows would cause the adult-use cannabis consumer to purchase or possess more than the amount of product authorized.

The Department of Health and Human Services (DHHS) presented information on the estimated fiscal impact of this measure. A copy of the fiscal note submitted by DHHS is attached as [Appendix B](#).

Statement of Estimated Fiscal Impact of the Measure

The statutory measure will become effective 30 days after approved, or December 8, 2022. The fiscal note prepared by DHHS includes information from several state agencies and local governments. The fiscal note identifies, for the remainder of the 2021-23 biennium through the 2025-27 biennium, total estimated revenues of \$3,145,000 and total estimated expenditures of \$4,985,632. Agencies reported the following estimated fiscal impacts:

- DHHS' Division of Medical Marijuana:
 - 2021-23 biennium - Revenues of \$840,000 and expenditures of \$0
 - 2023-25 biennium - Revenues of \$1,353,000 and expenditures of \$1,021,188
 - 2025-27 biennium - Revenues of \$952,000 and expenditures of \$970,444
- DHHS' other divisions - Unknown impact
- Department of Transportation:
 - 2021-23 biennium - \$0
 - 2023-25 biennium - Expenditures of \$1,972,000
 - 2025-27 biennium - Expenditures of \$1,022,000
- Agriculture Commissioner - No fiscal impact
- Department of Corrections and Rehabilitation - Unknown impact
- City governments - Unknown impact
- County governments - Unknown impact
- Highway Patrol - Unknown impact
- Attorney General - Unknown impact
- Tax Commissioner - Unknown revenue impact, no expenditure impact
- Workforce Safety and Insurance - No fiscal impact

ATTACH:2



North Dakota Legislative Council

Prepared for the Legislative Management

LC# 23.9371.01000

September 2022

ESTIMATED FISCAL IMPACT OF TERM LIMIT MEASURE

SUMMARY OF MEASURE

Constitutional Measure No.1, relating to term limits for the Governor and legislators, would create a new article to the Constitution of North Dakota. The measure would prohibit an individual from serving as the Governor for more than 2 terms and prohibit an individual from serving more than a cumulative period of 8 years as a member of the House of Representatives and a cumulative period of 8 years as a member of the Senate. An individual's service in the House of Representatives or the Senate or election to the office of the Governor before January 1, 2023, does not count against the term limits provided in the measure. The measure would prohibit a Senator or Representative from serving the full or remaining portion of the member's term once a member has served, after January 1, 2023, a cumulative total of 8 years in the member's respective chamber. The measure would restrict future amendments to the measure to amendments initiated by citizens through an initiated constitutional measure.

ESTIMATED FISCAL IMPACT

Based on our office's review of the measure relating to the effect of term limits for legislators and in discussions with representatives of the Office of Management and Budget regarding the effect of term limits for the Governor, we do not anticipate the measure to have a fiscal impact.

FISCAL NOTE

Requested by Legislative Council
08/18/2022

Initiated measure regarding legalization of cannabis and related regulation

1A. 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.*

	2021-23 Biennium		2023-25 Biennium		2025-27 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$840,000		\$1,353,000		\$952,000
Expenditures			\$1,972,000	\$1,021,188	\$1,022,000	\$970,444
Appropriations			\$1,972,000		\$1,022,000	

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

2021-23 Biennium			2023-25 Biennium			2025-27 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters.)*

Creates a new chapter of state law regarding legalization of cannabis including production, processing, and sale of cannabis; possession and use of cannabis products by individuals 21 and older; possession of up to three cannabis plants; establishes fees; and directs a state entity to regulate.

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.*

Registration of additional manufacturing facilities and dispensaries, sales of cannabis products, and regulation of the entities will have a fiscal impact.

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.*

Revenue projections for the Division of Medical Marijuana within the Department of Health and Human Services include application fees of manufacturing facilities and dispensaries, registration fees of manufacturing facilities and dispensaries, additional plant fees, and agent application fees. A reduction in the qualifying patient application fees is projected (anticipated 80% reduction). All fees are deposited into a special fund.

Additional revenue is anticipated to be collected on the sale of cannabis products. The measure includes no provisions for additional taxes on sales of cannabis products or paraphernalia. Thus, sales would have a 5% sales and use tax. According to the Office of the State Tax Commissioner, they are unable to estimate this accurately because the product cost and level of sales is unknown.

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.*

Expenditure increases for the Division of Medical Marijuana within the Department of Health and Human Services would be related to increases in salaries and wages, travel, and an information technology system. Four additional FTE are included.

Expenditure increases for the Department of Transportation would be related to increases in salaries and wages, training, drug screening devices, and media/advertising campaign. One additional FTE is included (anticipate being in Highway Patrol, paid through Department of Transportation).

Other entities were contacted to request fiscal impact information. Certain entities identified the fiscal impact was unknown while others identified no impact. A summary of comments follows:

- Department of Agriculture: no fiscal impact;
- Department of Corrections and Rehabilitation: anticipate neutral impact to slight increase in number of people on supervision and/or incarcerated, hard to predict how much due to so many variables;
- Department of Health and Human Services: unable to determine a fiscal impact at this time for divisions other than the Division of Medical Marijuana;
- City governments: unable to identify fiscal impacts;
- County governments: some increased costs but they are unknown;
- Highway Patrol: due to too many unknowns in several areas, fiscal impact is undetermined at this time;
- Office of Attorney General: could impact several divisions, impact unknown at this time;

- Office of the State Tax Commissioner: no provision for any other drug tax, thus costs would be within normal scope of business;
- Workforce Safety and Insurance: no fiscal impact.

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 is also included in the executive budget or relates to a continuing appropriation.*

Revenue collected by the Department of Health and Human Services from application fees and registration fees will be deposited into a special fund. The program operates under a continuing appropriation. Thus, there is no impact to the Department of Health and Human Services appropriations.

Expenditure increases for the Department of Transportation are expected to be included in appropriation amounts.

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Date Prepared: 09/06/2022