

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  
Wednesday, September 12, 2018

**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 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 first 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 first 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.

Four initiative measures qualify for the ballot for the general election on Tuesday, November 6, 2018. Measures qualifying for the ballot include:

- A constitutional initiated measure relating to government ethics;
- A constitutional initiated measure relating to qualified elector voting rights;
- A statutory initiated measure relating to the legalization of marijuana; and
- A statutory initiated measure relating to emergency responder vehicle plates.

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. Those state agencies determined to have either the best information on the impact of a measure or the primary responsibility for compiling and maintaining the information needed were invited to prepare fiscal notes and present findings at a meeting held by the Legislative Management on September 12, 2018.

**INITIATED CONSTITUTIONAL MEASURE NO. 1 -  
GOVERNMENT ETHICS**

This initiated constitutional measure would create a new article to the Constitution of North Dakota relating to government ethics requirements. The measure also would require any person who spent more than \$200, adjusted for inflation, to influence a statewide election, election for the Legislative Assembly, or any "state government action" to disclose the sources of the funds. The measure would require the Legislative Assembly to enact laws regarding the disclosure provisions and would give each resident taxpayer the right to initiate a lawsuit to enforce the measure's disclosure requirements.

The measure would prohibit lobbyists from offering or providing gifts to public officials and would prohibit public officials from accepting gifts from lobbyists. The measure would prohibit lobbyists from delivering campaign contributions made by others and would prohibit public officials from lobbying while in office and for 2 years after holding office. The measure defines "public official" as any elected or appointed official in the executive or legislative branch of state government and all employees of the legislative branch.

The measure would prohibit candidates from spending campaign contributions for personal benefit, require agency heads to avoid an appearance of bias in quasi-judicial proceedings, and prohibit foreign entities from making contributions or expenditures in connection with elections.

The measure would create an ethics commission of five members appointed by the Governor, the Majority Leader of the Senate, and the Minority Leader of the Senate. The measure would give the commission authority

to adopt rules related to transparency, corruption, elections, and lobbying, and to investigate any alleged violation of the article of the constitution, related statutes, and the commission's rules. The measure would require the Legislative Assembly to appropriate funds to the commission.

The Office of Management and Budget (OMB) presented information on the estimated fiscal impact of this measure. A copy of the fiscal note submitted by OMB is attached as [Appendix A](#).

### **Statement of Estimated Fiscal Impact of the Measure**

The general provisions of the constitutional measure provide the measure becomes effective 60 days after approved, or January 5, 2019. Although there will be costs associated with the ethics commission, the fiscal note prepared by OMB states the costs cannot be determined.

## **INITIATED CONSTITUTIONAL MEASURE NO. 2 - QUALIFIED ELECTOR VOTING RIGHTS**

This initiated constitutional measure would amend Section 1 of Article II of the Constitution of North Dakota regarding qualified electors. The current language of the article states, "[e]very citizen of the United States, who has attained the age of eighteen years and who is a North Dakota resident, shall be a qualified elector." The measure would replace "Every" with "Only a". The measure also would create a new section to Article II which provides only a qualified elector may vote in any general, special, or primary election for a federal, statewide, state legislative, district, county, township, city, or school district office, or for a statewide, district, or political subdivision ballot measure.

The Secretary of State presented information on the estimated fiscal impact of this measure. A copy of the fiscal note submitted by the Secretary of State is attached as [Appendix B](#).

### **Statement of Estimated Fiscal Impact of the Measure**

The fiscal note prepared by the Secretary of State states because the constitutional measure does not change the current election administrative procedures in state law, the measure does not appear to have a fiscal impact.

## **INITIATED STATUTORY MEASURE NO. 3 - LEGALIZATION OF MARIJUANA**

This initiated statutory measure would amend Chapter 19-03.1 to remove hashish, marijuana, and tetrahydrocannabinols from the list of Schedule I hallucinogenic controlled substances set forth in the Uniform Controlled Substances Act. The measure would decriminalize the possession of marijuana by an individual 21 years of age or older and provide for the same penalty as the penalty associated with a minor in possession of alcohol, for the possession of marijuana by an individual under the age of 21. The measure would provide the penalty for the distribution of marijuana to an individual under the age of 21 would be the same penalty as if an individual sold alcohol to a minor. The measure would require that any individual who has an illegitimate drug conviction have the individual's records expunged and sealed by the court automatically. The measure would require the state to pay all legal expenses for both parties and would authorize an individual to sue the state for damages caused by a failure to properly expunge records. The measure would create Chapter 66-01 to provide a definition for marijuana and marijuana paraphernalia and a general repeal of any conflicting language in Century Code.

The Office of Management and Budget presented information on the estimated fiscal impact of this measure. A copy of the fiscal note submitted by OMB is attached as [Appendix C](#).

### **Statement of Estimated Fiscal Impact of the Measure**

The statutory measure will become effective 30 days after approved, or December 6, 2018. The fiscal note prepared by OMB includes information from several state agencies and local governments. The fiscal note states, while several agencies could not determine the fiscal impact of the measure, several other agencies estimated a combined fiscal impact in excess of \$6 million. Agencies reported the following estimated fiscal impacts to OMB:

- Agriculture Commissioner - Unknown impact;
- Attorney General - \$1,100,000 in expenditures in the 2017-19 biennium;

- Commission on Legal Counsel for Indigents - Unknown impact;
- Department of Corrections and Rehabilitation - No material impact;
- Department of Human Services - Unknown expenditure impact;
- Department of Transportation - No impact;
- State Department of Health - \$4,364,462 expenditure impact, including \$125,775 in the 2017-19 biennium and \$4,238,687 in the 2019-21 biennium;
- Highway Patrol - Unknown expenditure impact;
- City governments - Unknown revenue and expenditure impacts;
- County governments - \$612,000 in expenditures in the 2017-19 biennium and other unknown future costs and savings;
- Judicial branch - \$565,000 in expenditures in the 2017-19 biennium and other unknown future costs;
- Tax Commissioner - Unknown revenue impact;
- Workforce Safety and Insurance - No impact.

The Office of Management and Budget states because several agencies could not determine the fiscal impact of the statutory measure, the overall fiscal impact cannot be determined.

#### **INITIATED STATUTORY MEASURE NO. 4 - PERSONALIZED VEHICLE PLATES FOR VOLUNTEER EMERGENCY RESPONDERS**

This initiated statutory measure would create a new section to Chapter 39-04 requiring the Director of the Department of Transportation (DOT) to provide red personalized vehicle plates to volunteer emergency responders upon request. The measure provides the plates will not have an initial or an annual cost. Under the measure, volunteer emergency responders include firefighters and medical responders. The measure would prohibit the display of the plates on a vehicle weighing over 20,000 pounds. The measure would require the first three digits of the plates to be the last three digits of the zip code where the volunteer's department is located. The measure provides the plates would serve as an entrance pass to all North Dakota state parks.

The Department of Transportation presented information on the estimated fiscal impact of this measure. A copy of the fiscal note submitted by DOT is attached as [Appendix D](#).

#### **Statement of Estimated Fiscal Impact of the Measure**

The fiscal note prepared by DOT states the fiscal impact of the statutory measure would be an estimated loss of \$3,637,740 of revenue during the 2019-21 biennium and that costs for one-time programming and license plates of \$117,740 would be incurred during the 2019-21 biennium. The fiscal note states the estimated revenue loss each biennium thereafter would total \$3,520,000 per biennium resulting in decreases in deposits to the highway tax distribution fund of \$2,750,000 and the Parks and Recreation Department operating fund of \$770,000. Of the \$2,750,000 decrease in deposits to the highway tax distribution fund, \$1,023,000 would have been distributed to cities, counties, and townships; \$41,250 would have been deposited in the public transportation fund; and \$1,727,000 would have been deposited in the state highway fund

ATTACH:4

State of North Dakota  
**OFFICE OF MANAGEMENT AND BUDGET**

600 East Boulevard Avenue, Dept. 110 • Bismarck, North Dakota 58505-0400  
FAX – 701.328.3230

September 5, 2018

Sheila Sandness  
Legislative Council  
State Capital  
Bismarck, ND 58505

Dear Sheila:

This is in response to your letter dated July 12, 2018, requesting OMB to determine the estimated fiscal impact of an initiated measure related to adding a new article to the North Dakota Constitution establishing a North Dakota ethics commission.

The full fiscal impact of this measure cannot be determined at this time. The measure does not specify if this commission will reside in a state agency or if paid employees will be required. An estimate was obtained from ITD for the cost of a whistle blower hotline. The cost of the hotline is estimated at \$28 per month for a standard telephone line with voice mail for a biennial cost of \$672.

If approved by the voters in the November 2018 general election, the measure will take effect sixty days after approval.

If you have any questions, please contact me.

Sincerely,



Joe Morrisette  
Director

ALVIN A. JAEGER  
SECRETARY OF STATE

HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



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**SECRETARY OF STATE**  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

August 21, 2018

Sheila M Sandness  
Senior Fiscal Analyst  
North Dakota Legislative Council  
600 East Boulevard Avenue  
Bismarck ND 58505-0360

Dear Ms. Sandness,

I am responding to your letter dated July 12, 2018, in which this office was requested to provide the estimated fiscal impact of Initiated Constitutional Measure # 2 related to the elections in which a qualified elector may vote.

The plain reading of the proposed amendment indicates that "Only a" citizen of the United States may vote in the elections listed in Section 3. Based on that reading and because it does not change the current election administrative procedures in state law, my office did not find anything in the proposed amendment that would cause a fiscal impact for an agency of the state, district or political subdivision.

Sincerely,

A handwritten signature in blue ink that reads "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State

State of North Dakota  
**OFFICE OF MANAGEMENT AND BUDGET**

600 East Boulevard Avenue, Dept. 110 • Bismarck, North Dakota 58505-0400  
FAX – 701.328.3230

September 11, 2018

Sheila Sandness  
Legislative Council  
State Capitol  
Bismarck, ND 58505

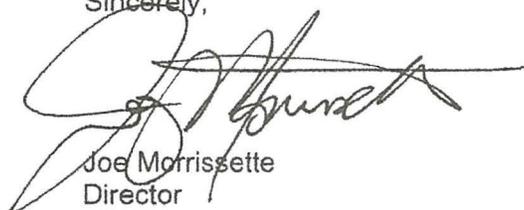
Dear Sheila,

This is in response to your letter dated July 12, 2018, requesting OMB to determine the estimated fiscal impact of an initiated measure related to recreational marijuana.

If approved by the voters in the November 2018 general election, the measure will become effective thirty days after the election. The fiscal impact for this initiated measure involves several state and local entities. While several agencies could not determine the fiscal impact, the combined known fiscal impact is estimated to be over \$6 million. An explanation of each entity's fiscal impact is attached.

If you have any questions, please contact me.

Sincerely,



Joe Morrissette  
Director

Agency:	Known Cost:
<p data-bbox="110 142 386 174">Agriculture Department</p> <p data-bbox="142 174 1263 394">If the measure passes it would greatly impact the Industrial Hemp (IH) program. The measure would deregulate the enforcement of overseeing IH regulations. The amount in the current budget for this program is \$120,000 of special funds. However, the federal government in the farm bill being drafted still requires states to test for THC levels in IH. The fees will be reduced, but the level is unknown. The program would still have expenses that the hemp growers would have to pay fees to cover. Thus, the impact is unable to be determined until the farm bill and upcoming legislative session are finalized.</p>	<p data-bbox="1393 142 1503 174">Unknown</p>
<p data-bbox="110 422 313 453">Attorney General</p> <p data-bbox="142 453 1263 579">The estimated fiscal impact on the Office of Attorney General to expunge 179,101 records is \$1.1 million. An estimated 124 temporary staff will be needed to complete all of the expungements in 30 days and a week of training is included prior to the expungements occurring.</p>	<p data-bbox="1369 422 1503 453">\$1,100,000</p>
<p data-bbox="110 611 626 642">Commission on Legal Counsel for Indigents</p> <p data-bbox="142 642 1263 999">The Commission will likely see some impact from the measure, but the exact cost and/or savings are not possible to predict. The agency will see a reduction in delivery and possession of marijuana charges, and possession of marijuana paraphernalia charges. However, case assignments are not specifically tracked by type of controlled substance, nor is tracking of the age of the defendant (or person to whom controlled substances were provided) required, so the percentage of cases for which there could still be a charge for marijuana related activities under the measure cannot be calculated. The basis for police investigation for some non-marijuana related charges would have been marijuana related activity; if this measure passes, that basis will be reduced, and as a result there could be less investigation of some situations that would have previously resulted in other criminal charges. However, on the other hand, some police activity currently directed to marijuana related activity will be directed to other activity, which could result in an increase in other types of charges.</p>	<p data-bbox="1393 611 1503 642">Unknown</p>
<p data-bbox="110 1031 646 1062">Department of Corrections and Rehabilitation</p> <p data-bbox="142 1062 1263 1272">The DOCR does not anticipate a material fiscal impact to its operations if the measure passes. The DOCR currently has less than 10 individuals in custody for a marijuana only offense. The average sentence for those individuals with a good time release date is 1.61 years. The DOCR currently has less than 250 individuals on community supervision for a marijuana only offense. The average length of supervision for those individuals is 3 years. If both the custody and supervision individuals were not involved with the DOCR the estimated fiscal impact to DOCR appropriations would be minimal at best for both 17-19 and 19-21.</p>	<p data-bbox="1474 1031 1503 1062">\$0</p>
<p data-bbox="110 1310 483 1341">Department of Human Services</p> <p data-bbox="142 1341 1263 1404">There is not enough substantiated research to quantify the potential increase in costs to the Department of Human Services and we are not comfortable making those types of estimates.</p> <p data-bbox="142 1436 1263 1646">For reference, however, a 1% increase or decrease in cost for applicable services in CFS, Field Services and Economic Assistance would be approximately \$3.5M and the general fund portion of that would exceed \$1.2M. However the impacts to the CFS and Field Services expenditures would not be felt on the department's budget until the associated cost and caseload impacts are approved by legislature; until then, these costs represent a mix shift of service utilization (e.g., more time is spent by assigned FTEs on marijuana-related cases at the expense of others or wait times for addiction treatment or child welfare response increasing).</p> <p data-bbox="142 1677 1263 1803">Additionally, there is some research to support an increase in emergency department use. Based on some high level estimates from Illinois and applying the data to North Dakota population statistics, suggests an additional cost to North Dakota Medicaid of \$300k, of which \$150k would be general fund.</p> <p data-bbox="142 1835 1263 1919">Beyond that, there would need to be additional investment in prevention and community education. If equated to Parents lead, it could reach a cost of \$600k (\$450k in operating costs and \$150k for an FTE).</p>	<p data-bbox="1393 1310 1503 1341">Unknown</p>

Department of Transportation	\$0
The Department of Transportation has reviewed the recreational marijuana measure and determined that the initiated measure, if passed, would have no fiscal impact on the agency.	
Health Department	\$4,364,462
<p>The North Dakota Department of Health has the responsibility of protecting the health and safety of all North Dakotans. Because of our commitment to public health, the North Dakota Department of Health anticipates the need for the following:</p> <ul style="list-style-type: none"> <li>◦ An educational campaign on the health impact and physical addiction attributed to marijuana use among youth. The campaign would include research, paid media, educational pieces, a website and social media. <ul style="list-style-type: none"> <li>◦ 2017 – 2019 biennium - \$ 95,000</li> <li>◦ 2019 – 2021 biennium - \$3,740,000</li> </ul> </li> <li>◦ A full-time program manager to maintain an educational program that informs on the dangers to vulnerable populations such as youth, as well as pregnant and breastfeeding mothers. <ul style="list-style-type: none"> <li>◦ 2017 – 2019 biennium - \$ 30,775</li> <li>◦ 2019 – 2021 biennium - \$163,808</li> </ul> </li> <li>◦ Enhance existing survey tools such as the Behavioral Risk Factor Surveillance System (BRFSS), the Pregnancy Risk Assessment Monitoring System (PRAMS), and potentially the Youth Risk Behavior Survey (YRBS) to capture information for analysis. <ul style="list-style-type: none"> <li>◦ 2017 – 2019 biennium - \$ 0</li> <li>◦ 2019 – 2021 biennium - \$184,000</li> </ul> </li> <li>◦ A full-time epidemiologist to monitor trends such as increased ER visits or hospitalizations by youth, product tampering, changes in health among populations, etc. Additionally, this position will perform data analysis of hospital discharge information, emergency room visits, poison control information along with gathering other relevant data related to marijuana use. Evaluation of the prevention messages and education campaign will also be a function of this position. <ul style="list-style-type: none"> <li>◦ 2017 – 2019 biennium - \$ 0</li> <li>◦ 2019 – 2021 biennium - \$150,879</li> </ul> </li> </ul> <p>Overall Department of Health costs:</p> <ul style="list-style-type: none"> <li>◦ 2017 – 2019 biennium - \$ 125,775</li> <li>◦ 2019 – 2021 biennium - \$4,238,687</li> </ul>	
Highway Patrol	Unknown
<p>The fiscal impacts to the NDHP are dependent on the final wording and legal interpretation of the measure. There are some potential areas which would have a fiscal impact to the agency.</p> <p><u>NDHP K9 program:</u> It appears that the measure, as written, does not have any limitations on the quantity of marijuana a person may possess, which would essentially make all possession amounts legal at the state level. The narcotics detection K9's are trained to indicate on several different types of drugs, including marijuana. There is the potential that a marijuana trained K9 would now provide a false indicator if a person was arrested with drugs other than marijuana, but also had marijuana in the vehicle. The argument could be used that the dog smelled the marijuana (which would be legal) and there was no basis to further search the vehicle to find the other drugs. In other states with legal recreational marijuana, it is still often considered contraband because of quantity limitations. Should courts find that the marijuana trained dogs are no longer a valid tool, below are the replacement costs associated with the K9 program.</p> <ul style="list-style-type: none"> <li>◦ Current Narcotics K9's x 6 x \$6500 = \$39,000</li> <li>◦ 6 weeks (240 hours) of training by the handler and trainer: 240 x \$46.00/hr. x 2 (trainer and handler) x 6 dogs = \$132,480</li> <li>◦ Travel, lodging and per diem for trainers and handlers (in-state and out of state) = \$15,000 (approx.)</li> </ul> <p>Total = \$186,480.00</p>	

<p><u>Additional Training:</u> There are some questions on the impact the initiated measure, as written, will have on the current driving under the influence law. If the DUI law is not impacted, there may be a need to further expand our Drug Recognition Expert (DRE) trained officers and expand the frequency and level of training for all officers to better detect a drug impaired driver. Currently, this training is being done, but legalized marijuana may dictate the need for more training. The funding relating to an officer becoming trained to become a drug recognition expert is coming from two different sources. The agency pays for the salary and benefits for the officer while attending the training. NDDOT pays for the training costs, travel, lodging, etc. At this point, the extent of DRE expansion needed to undertake by the Highway Patrol is unknown, but it should be noted as a potential cost with the initiated measure. The NDDOT cost is approximately 2000.00 per student and the salary for 80 hours is approximately 2800.00 (35.00/hour). Total = \$4,800.00/Officer</p>	
<p>North Dakota City Governments</p>	<p>Unknown</p>
<p>North Dakota City Governments would not be able to provide reasonable fiscal impact data for cities.</p> <p>Every state that legalized recreational marijuana had the State Legislature pass regulatory rules to conform to existing law/regulation, not only at the initial onset of the legalization, but ongoing through subsequent legislative sessions. As an example, Oregon passed recreational marijuana in 2014 and statutory changes were still being made up to and including the 2018 Session.</p> <p>A <u>non-comprehensive</u> list of revenue and expense items could include:</p> <ul style="list-style-type: none"> <li>• City sales tax</li> <li>• State revenue sharing (e.g.--as we currently have with the State Aid Distribution Fund)</li> <li>• Initial licensing/permit and renewal costs based on regulated activities such as producers, processors, wholesalers and retailers</li> <li>• City attorney fees with promulgation of ordinances to address: <ul style="list-style-type: none"> <li>○ Land use/zoning</li> <li>○ Inspection</li> <li>○ Audits</li> <li>○ License transfer</li> <li>○ Signage</li> </ul> </li> <li>• Civil and criminal enforcement costs/fines</li> <li>• Election costs if there is an opt-in process for a municipality that originally opted out</li> <li>• Costs associated with any State preemption</li> <li>• Costs if medical and recreational rules are consolidated at some point</li> </ul>	
<p>North Dakota County Governments</p>	<p>\$612,000</p>
<p>Counties anticipate Measure #3 will have some fiscal impacts but to what degree is hard to fully determine.</p> <p>The underlying assumption is legalization will increase use to some extent. Increased use will lead to additional law enforcement and social services contacts. However, some of those costs may be offset by less arrests and jail costs. Those fiscal impacts cannot be fully evaluated.</p> <p>What can be determined to some degree is the impact of section 4 which contains a clause requiring "records" to be expunged and sealed. Further, section 4 provides a "right to sue" clause for failure to properly expunge records. These records must be expunged within 30 days of the passage of this measure. Because "records" is not specifically limited to official court records, it is possible State's Attorney records would also have to be expunged and the files sealed pursuant to court order. The quick turn around on this provision may necessitate the payment of overtime to staff members to identify the qualified cases and create and file motions to seal. Based on the court data over the last four years it appears an average of 3600 cases statewide would be impacted a year. County data shows the average hourly staff salary is \$17. It is estimated it would take conservatively 1 hour of staff time per case to ensure the records are expunged to avoid liability.</p>	

<p>Therefore, it is the estimate of NDACo that County State's Attorneys Offices may encounter a cost of \$61,200 a year to properly expunge records. (\$17 x 3600) Additionally, Measure #3 does not place a limit on the retroactivity of the records expungement. However, most counties have a records retention policy for misdemeanors consistent with the North Dakota Supreme Court's record retention schedule which is 10 years. That would drive the total potential annual costs to the counties for expungement to \$612,000.</p>																					
<p><b>Supreme Court</b></p>	<p><b>\$565,000</b></p>																				
<p>Case records that include the term "marijuana" in the description of an offense per year is as follow:</p> <table border="1" data-bbox="142 415 1263 577"> <thead> <tr> <th>Year</th> <th>District Court</th> <th>Municipal Court</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>2014</td> <td>3,262</td> <td>954</td> <td>4,216</td> </tr> <tr> <td>2015</td> <td>3,608</td> <td>1,606</td> <td>5,214</td> </tr> <tr> <td>2016</td> <td>3,499</td> <td>2,263</td> <td>5,762</td> </tr> <tr> <td>2017</td> <td>4,043</td> <td>2,536</td> <td>6,579</td> </tr> </tbody> </table> <p>Identifying all offenses that involve marijuana or drug paraphernalia can be very difficult. Quite often "marijuana" is not a part of the case description and, in fact, the word may not even exist anywhere in the entire case. This will make the process to expunge all cases retroactively very difficult and time consuming. The North Dakota Court System will need at a minimum to contract for two individuals to review all files to determine if they meet criteria for and to expunge all applicable district court cases. It is assumed that the North Dakota Court System would not be responsible for the cost to expunge municipal court cases. The cost for the contract positions is estimated to be \$200,000 for a two year period. There would also be additional postage costs incurred to mail a certified notice of expungement to each defendant. Although it is impossible to determine an exact estimate, the additional mailing costs could very reasonably exceed \$365,000.</p> <p>There are potentially numerous additional costs relating to this measure that may be incurred by the North Dakota Court System but can't be reasonable estimated. For example, there would be costs incurred for failure to expunge or failure to expunge within timeframes. This may include attorney fees to defend against a claim, attorney fees and costs for an appellant in the event the appellant prevails and increased demands on court for jury trials or court trials to adjudicate claims brought against non-court entities for failure to expunge. The identified fiscal impact to the North Dakota Court System is \$565,000, however the actual fiscal impact could be significantly greater.</p>	Year	District Court	Municipal Court	Total	2014	3,262	954	4,216	2015	3,608	1,606	5,214	2016	3,499	2,263	5,762	2017	4,043	2,536	6,579	
Year	District Court	Municipal Court	Total																		
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2016	3,499	2,263	5,762																		
2017	4,043	2,536	6,579																		
<p><b>Tax Department</b></p>	<p><b>Unknown</b></p>																				
<p>If the measure is enacted by the voters, marijuana products and paraphernalia legally sold in North Dakota will be considered tangible personal property. As such, these items will be subject to the state's 5 percent sales and use tax, as well as any corresponding local sales and use taxes.</p> <p>There are no provisions in the measure for any other drug tax. Administrative costs associated with implementing this measure would be within the normal scope of business for the Tax Commissioner's office.</p> <p>The only tax-related fiscal impact expected from the sale of marijuana products is the increase in sales and use tax collections. However, this impact cannot be accurately estimated because product cost and the level of sales is unknown.</p>																					
<p><b>Workforce Safety and Insurance</b></p>	<p><b>\$0</b></p>																				
<p>Workforce Safety and Insurance has reviewed the recreational marijuana measure and determined that the initiated measure, if passed, would have no fiscal impact on the agency.</p>																					
<p><b>Total Known Cost:</b></p>	<p><b>\$6,641,462</b></p>																				

**LEGISLATIVE MANAGEMENT COMMITTEE****Date: September 12, 2018 at 2:35 p.m.****North Dakota Department of Transportation  
Lindi Michlitsch, Motor Vehicle Division Director****Measure No. 4 – Personalized plate for volunteer emergency responders**

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Good afternoon, Mr. Chairman and members of the committee. I'm Lindi Michlitsch, Motor Vehicle Division Director at the North Dakota Department of Transportation (DOT). Thank you for giving me the opportunity to present information to you today.

This initiated measure proposes to create a new red license plate at no cost to volunteer firefighters and emergency responders. This plate would be a personalized plate with the volunteer's last 3 digits of the zip code of the city where the individual volunteers and the remaining space may contain up to 3 letters of the volunteer's choosing.

With approximately 11,000 volunteers, this measure would reduce the amount of revenue distributed to the highway tax distribution fund as Motor Vehicle would not be collecting the annual registration fees or the \$25 personalized plate fee.

The fiscal note attached reflects that during the next biennium there would be a decrease in revenue in the amount of approximately \$2.86 million which includes programming costs. Each biennium thereafter would show a decrease of approximately \$2.75 million. A portion of the \$2.75 million would decrease the amount of money distributed to the cities, counties, and townships in the amount of about \$1.02 million per biennium.

In addition, this measure requires the DOT to create a process to regulate or certify each volunteer firefighter and emergency responder. Currently, the DOT does not certify requirements for a specialty plate; another organization provides the documentation. For example, the Gold Star plate requires the Department of Veterans' Affairs to certify, not the DOT. (See below)

NDCC 39-04-10.14. North Dakota gold star number plates.

[...] 3. On request of the director, the department of veterans' affairs shall certify those surviving family members of deceased members of the United States armed forces listed above as eligible to receive the plates. [...]

This measure will slow down the registration process as it will require special handling to complete and recertify each year. At this time, we are unsure how the certification process will look until we have a further understanding of what it takes to qualify for this type of plate.

Thank you, Mr. Chairman, I would be happy to answer any questions.

## Volunteer Plate Measure - Fiscal Analysis

July 25, 2018

### Assumptions:

All vehicles that will receive a set of volunteer plates are already licensed.

This analysis excludes the impact to the motor vehicle division as that impact will be revenue neutral to the division due to "off the top" funding.

All first responders receiving a set of volunteer plates will also request a park pass.

Number of Volunteer Plates	11,000
Average Revenue per single registration for pickups and passenger vehicles	\$ 125
Cost of producing a set of plates (\$5.95 plate production + 3.39 mailing)	\$ 9.34
One time programming costs	\$ 15,000.00
Highway Tax Distribution Fund (HTDF) Percentages	
NDDOT	61.30%
Cities	12.50%
Counties	22.00%
Townships	2.70%
Transit (NDDOT)	1.50%
Average Revenue per ND Parks and Recreation Parks Pass	\$ 35

### Highway Tax Distribution Fund Revenue Loss (First Biennium):

Revenue loss per biennium (11,000 X \$125 X 2 years)	\$ 2,750,000
Revenue loss related to new "off the top" MV costs	117,740
Total First Biennium Revenue Impact	<u>\$ 2,867,740</u>

### Highway Tax Distribution Fund Revenue Loss (Each subsequent Biennium)

Revenue loss per biennium (11,000 X \$125 X 2 years)	<u>\$ 2,750,000</u>
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### Ten Year Highway Tax Distribution Fund Revenue Loss

	Total	NDDOT	Cities	Counties	Townships	Transit
First Biennium	\$ 2,867,740	\$ 1,757,925	\$ 358,468	\$ 630,903	\$ 77,429	\$ 43,016
Second Biennium	2,750,000	1,685,750	343,750	605,000	74,250	41,250
Third Biennium	2,750,000	1,685,750	343,750	605,000	74,250	41,250
Fourth Biennium	2,750,000	1,685,750	343,750	605,000	74,250	41,250
Fifth Biennium	2,750,000	1,685,750	343,750	605,000	74,250	41,250
Total 10 year Revenue Loss	<u>\$ 13,867,740</u>	<u>\$ 8,500,925</u>	<u>\$ 1,733,468</u>	<u>\$ 3,050,903</u>	<u>\$ 374,429</u>	<u>\$ 208,016</u>

### Parks and Recreation Potential Revenue Loss

Potential Revenue Loss Per Biennium (11,000 X \$35 X 2 years)	<u>\$ 770,000</u>
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### Ten Year Parks and Recreation Potential Revenue Loss

First Biennium	\$ 770,000
Second Biennium	770,000
Third Biennium	770,000
Fourth Biennium	770,000
Fifth Biennium	770,000
Total Potential 10 year Revenue Loss	<u>\$ 3,850,000</u>

### Combined Ten Year Revenue Loss - Highway Tax Distribution Fund & Parks and Rec.

	Total	NDDOT	Cities	Counties	Townships	Transit	Parks and Rec.
First Biennium	\$ 3,637,740	\$ 1,757,925	\$ 358,468	\$ 630,903	\$ 77,429	\$ 43,016	\$ 770,000
Second Biennium	3,520,000	1,685,750	343,750	605,000	74,250	41,250	770,000
Third Biennium	3,520,000	1,685,750	343,750	605,000	74,250	41,250	770,000
Fourth Biennium	3,520,000	1,685,750	343,750	605,000	74,250	41,250	770,000
Fifth Biennium	3,520,000	1,685,750	343,750	605,000	74,250	41,250	770,000
Total 10 year Revenue Loss	<u>\$ 17,117,740</u>	<u>\$ 8,500,925</u>	<u>\$ 1,733,468</u>	<u>\$ 3,050,903</u>	<u>\$ 374,429</u>	<u>\$ 208,016</u>	<u>\$ 3,850,000</u>