

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
Tuesday, May 1, 2012

In 2004 the electorate of this state approved a constitutional amendment to Article III, Section 2, 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 Management's 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 Management 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 Management, and the Legislative Council is to issue a report of the actual fiscal impact of the initiated measure.

Two initiative measures qualify for the ballot for the general election on Tuesday, June 12, 2012--an initiated constitutional amendment measure relating to prohibiting the imposition of property taxes and an initiated constitutional measure prohibiting the government from burdening the exercise of religious liberty.

The Legislative Management in May 2011 appointed the interim Property Tax Measure Review Committee to study the potential impact of initiated measure No. 2. The committee submitted its report to the Legislative Management on Tuesday, May 1, 2012. In addition, the Legislative Council followed the procedure required by statute, which is similar to the procedure used by the Legislative Assembly for obtaining fiscal impact information 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 that is needed were invited to prepare fiscal notes and present their

findings at the meeting of the Legislative Management on Tuesday, May 1, 2012.

**INITIATED MEASURE REGARDING
PROHIBITING IMPOSITION OF
PROPERTY TAXES**

This initiated measure, Initiated Constitutional Measure No. 2 on the primary election ballot, would amend Sections 1, 4, 14, 15, and 16 of Article X of the Constitution of North Dakota and repeal Sections 5, 6, 7, 9, and 10 of the same article, which relate to property taxes, poll taxes, and acreage taxes. As summarized by the Secretary of State:

This initiated constitutional measure would amend sections 1, 4, 14, 15, and 16 of Article X of the North Dakota Constitution and repeal sections 5, 6, 7, 9, and 10 of that same article, eliminating property taxes, poll taxes, and acreage taxes, effective January 1, 2012. The measure would require the Legislative Assembly to replace lost revenue to cities, counties, townships, school districts, and other political subdivisions with allocations of various state-level taxes and other revenues, without restrictions on how these revenues may be spent by the political subdivisions.

The Tax Department presented information on the estimated fiscal impact of this measure. A copy of the fiscal note prepared by the department is attached as Appendix A.

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

The fiscal note prepared by the Tax Department states the measure will repeal ad valorem property taxes effective January 1, 2012. The amount of property taxes that would be eliminated upon successful passage of the measure would total \$812,225,000 for 2012. The estimated fiscal impact assumes the effective date of the measure would initially impact and repeal 2012 property taxes that would be due and payable in 2013. The estimated fiscal impact reflects only one year of the 2011-13 biennium. The impact for subsequent bienniums would reflect a two-year period. Based on the historical property tax growth of 7.7 percent, per year the estimated fiscal impact of the measure for the 2013-15 biennium would be \$1.8 billion.

INITIATED MEASURE REGARDING THE EXERCISE OF RELIGIOUS LIBERTY

This initiated measure, Initiated Constitutional Measure No. 3 on the primary election ballot, would add a new section to Article I of the Constitution of North Dakota. As summarized by the Secretary of State:

This initiated constitutional measure would add a new section to Article I of the North Dakota Constitution stating, "Government may not burden a person's or religious organization's religious liberty. The right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be burdened unless the government proves it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest. A burden includes indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities."

The Office of Management and Budget presented information on the estimated fiscal impact of this measure. A copy of the fiscal note requested of the department is attached as Appendix B.

Statement of Estimated Fiscal Impact of the Measure

The fiscal note prepared by the Office of Management and Budget states the fiscal impact for this initiated measure cannot be determined.

ATTACH:2



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
 Cory Fong, Commissioner

Estimated Fiscal Impact of Initiated Measure No. 2

North Dakota Century Code Section 16.1-01-17 requires the preparation of the estimated fiscal impact of Initiated Measure No. 2. The Office of State Tax Commissioner, at the request of Legislative Council, has estimated the fiscal impact of the measure. This measure, if enacted by a vote of the people, will repeal ad valorem property taxes effective January 1, 2012. The amount of property taxes that will be eliminated by a successful passage of the measure is estimated to be \$812,225,000 for 2012.

This estimate assumes the effective date of the measure, if approved by the voters, will be interpreted to initially impact and repeal 2012 property taxes that would be due and payable in 2013. It is assumed that 2011 property taxes – due and payable in 2012 – will be interpreted to not be repealed by the measure.

Additional assumptions used in computing the first-year fiscal impact resulting in an estimated reduction of \$812,225,000 in ad valorem property taxes include:

- General property taxes are assumed to grow at the historical annual rate of 7.7%
- In lieu of property taxes that are based on property valuation are assumed to be repealed by a successful enactment of this measure
- Special taxes are assumed to remain in place with the exception of mobile home taxes, which are assumed to be repealed by a successful enactment of the measure
- Bonded indebtedness that is secured by property valuation is assumed to remain in place regardless of a successful enactment of the measure, until the completion of the bond repayments
- Most major in lieu of property taxes are assumed to continue to be imposed, and thus are not included in this fiscal impact estimation

Appendix A provides additional detail of the computation of the estimated fiscal impact of \$812,225,000. If any of the assumptions made are subsequently found to be erroneous, the estimated fiscal impact of the initiated measure would change accordingly.

If enacted by the voters, Initiated Measure No.2 will require the legislative assembly to replace lost property tax revenue estimated to total \$812,225,000 – or any portion that is determined to be required to “fully and properly fund the legally imposed obligations of counties, cities, townships, and other political subdivisions”-- from other state revenue sources. (Initiated Measure No. 2, Section 2, Subsection 3)

This estimate is the first-year fiscal impact of the property taxes that are expected to be repealed if the voters approve Initiated Measure No.2. The measure affects only a single year in the in the 2011-13 biennium. In subsequent biennia, two years would be affected, resulting in twice the fiscal impact.

APPENDIX A

Computation of Estimated Fiscal Impact:

Estimated 2012 (due in 2013) general property taxes:	\$ 829,875,000
Plus In-lieu taxes based on property valuation	+ \$655,000
Plus Special taxes on mobile homes	+ \$3,845,000
Less bonded Indebtedness (P&I repayments)	- <u>\$22,150,000</u>
Estimated 2012 property taxes subject to repeal	\$812,225,000

STATE OF NORTH DAKOTA
OFFICE OF MANAGEMENT AND BUDGET

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April 4, 2012

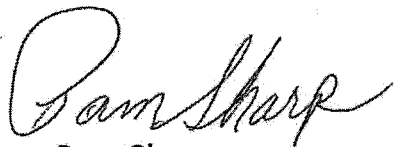
Becky Keller
Legislative Council
State Capitol
Bismarck, ND 58505

Dear Becky,

This is in response to your letter dated March 12, 2012, requesting OMB to determine the estimated fiscal impact of an initiated measure that prohibits the government from burdening the exercise of religious liberty. The fiscal impact for this initiated measure cannot be determined.

If you have any questions, please contact me.

Sincerely,



Pam Sharp
Director