

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, August 28, 2024

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 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.

One initiated constitutional measure relating to ad valorem property tax prohibition and one initiated statutory measure related to the legalization and regulation of cannabis qualified for the ballot for the general election on Tuesday, November 5, 2024.

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 August 23, 2024.

**INITIATED CONSTITUTIONAL MEASURE NO. 4 -
AD VALOREM PROPERTY TAX PROHIBITION**

The initiated constitutional measure would prohibit political subdivisions from raising revenue through the levying of any tax on the assessed value of real or personal property. An exception to the prohibition would allow a political subdivision to continue to levy tax on the assessed value of real property if the tax was dedicated for the payment of bonded indebtedness incurred before the end of the 30-day period following the date of voter approval of the amendment, until the debt is paid. The measure would require the state to provide annual property tax revenue replacement payments to political subdivisions in an amount equal to no less than the amount of tax levied on real property in the political subdivisions, excluding payments for bonded indebtedness, during the calendar year during which the amendment is approved by the voters.

The measure would alter the manner in which the state's allowable debt limit threshold is calculated. Currently, the calculation of the state's allowable debt limit threshold is 5 percent of the full and true value of all taxable property as provided in Section 14 of Article X of the Constitution of North Dakota. Under the measure, reference to "taxable property" as it relates to calculation of the debt limit would be changed to "real property." This change would result in a state debt limit calculation of 5 percent of the full and true value of all real property.

The measure also would alter the manner in which the allowable debt limit thresholds for political subdivisions are calculated. Currently, the constitutional debt limits for political subdivisions are calculated as a percentage of the assessed value of taxable property. The measure would change "assessed value" to "full and true value" and reduce the percentages to be applied to the full and true value by half for purposes of calculating the debt limits. Additionally, references to "taxable property" as it relates to calculation of the debt limits would be changed to "real property."

The measure would remove the requirement to specifically use tax revenue to pay political subdivision debt. Current law requires a political subdivision to provide for an annual tax sufficient to pay the interest and principal on indebtedness incurred by the political subdivision. The measure would change the requirement for "the

collection of an annual tax" sufficient to pay the interest and principal on the debt when due to "annual revenues" sufficient to pay the interest and principal on the debt when due. The measure also would expressly prohibit a political subdivision from issuing general obligation bonds secured with tax levied on the assessed value of property on or after the effective date of the amendment.

The measure would repeal various constitutional provisions in Article X of the Constitution of North Dakota, including provisions that require assessment of all taxable property and uniform taxation upon the same class of property, the constitutional one-mill levy for the State Medical Center, and the constitutional authority for the Legislative Assembly to levy and collect an acreage tax on certain property and to provide for the levy of tax for the purpose of creating a fund to insure the owners of growing crops against losses by hail.

If approved by the voters, the constitutional changes in the measure would take effect on January 1, 2025, except for Section 4 of the measure, which, in part, would prohibit a political subdivision from issuing additional general obligation bonds secured with ad valorem property tax. Section 4 would take effect 30 days following the election pursuant to Section 8 of Article III of the Constitution of North Dakota.

The Tax Commissioner provided information on the estimated fiscal impact of this measure. A copy of the fiscal note submitted by the Tax Commissioner is attached as [Appendix A](#).

Statement of Estimated Fiscal Impact of the Measure

The fiscal note prepared by the Tax Commissioner estimates the measure may result in an estimated \$3.15 billion increase in biennial expenditures to the state beginning in the 2025-27 biennium.

INITIATED STATUTORY MEASURE NO. 5 - LEGALIZATION AND REGULATION OF CANNABIS

The initiated statutory measure relating to the legalization and regulation of cannabis creates North Dakota Century Code 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 also would 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, 1,500 milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product, no more than 300 milligrams of adult-use cannabinoid edible 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 5, 2024, and requires an adult-use cannabis program be implemented no later than October 1, 2025. The fiscal note prepared by DHHS includes information from several state agencies and local governments. The fiscal impact, as revised by the committee, includes, for the 2025-27 biennium, estimated revenues of \$10,227,600, estimated expenditures of \$8,324,275, and an undetermined amount of additional costs associated with behavioral health and social impacts. Agencies reported the following estimated fiscal impacts for the 2025-27 biennium:

- DHHS' Division of Medical Marijuana - Revenues of \$1,564,600 and expenditures of \$1,392,275
- DHHS' other divisions - Unknown impact
- Department of Transportation - Revenues of \$1,382,000 and expenditures of \$1,932,000
- Highway Patrol - Expenditures of \$5,000,000

- Agriculture Commissioner - No fiscal impact
- Department of Corrections and Rehabilitation - No fiscal impact
- City governments - Unknown impact
- County governments - Unknown impact
- Attorney General - Unknown impact
- Tax Commissioner - Sales tax revenue of \$7,281,000
- Workforce Safety and Insurance - Unknown impact

ATTACH:2