

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

Friday, October 5, 2012

**BACKGROUND**

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.

The Legislative Assembly in 2005 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 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.

Three initiative measures qualify for the ballot for the general election on Tuesday, November 6, 2012--an initiated constitutional measure relating to the practice of farming and ranching, an initiated statutory measure prohibiting smoking in public places and worksites, and an initiated statutory measure relating to the prevention of animal cruelty.

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 that is needed were invited to prepare fiscal notes and present their findings at a meeting held by the Legislative Management on Thursday, October 4, 2012.

**INITIATED MEASURE REGARDING THE PRACTICE OF FARMING AND RANCHING**

This initiated measure, initiated constitutional measure No. 3 on the general election ballot, would create a new section to Article XI of the North Dakota Constitution. As summarized by the Secretary of State:

This initiated constitutional measure would create section 29 of Article XI of the North Dakota Constitution. The full text of the measure states, "The right of farmers and ranchers to engage in modern farming and ranching practices shall be forever guaranteed in this state. No law shall be enacted which abridges the right of farmers and ranchers to employ agricultural technology, modern livestock production and ranching practices."

The Office of Management and Budget (OMB) presented information on the estimated fiscal impact of this measure. A copy of the fiscal note prepared by the department is attached as an appendix.

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

The fiscal note prepared by OMB states the fiscal impact for this initiated measure cannot be determined.

**INITIATED MEASURE REGARDING PROHIBITING SMOKING IN PUBLIC PLACES AND WORKSITES**

This initiated measure, initiated statutory measure No. 4 on the general election ballot, would amend Chapter 23-12. As summarized by the Secretary of State:

This initiated statutory measure would amend chapter 23-12 of the North Dakota Century Code. It would prohibit smoking, including the use of electronic smoking devices, in public places and most places of employment in the state, including certain outdoor areas. It would provide notification and enforcement responsibilities, along with penalties for violations.

The Office of Management and Budget presented information on the estimated fiscal impact of this measure. A copy of the fiscal note prepared by the department is attached as an appendix.

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

The fiscal note prepared by OMB states the fiscal impact for this initiated measure cannot be determined.

**INITIATED MEASURE REGARDING THE  
PREVENTION OF CRUELTY TO ANIMALS**

This initiated measure, initiated statutory measure No. 5 on the general election ballot, would create a new section in Chapter 36-21.1. As summarized by the Secretary of State:

This initiated statutory measure would create section 36-21.1-02.1 of the North Dakota Century Code. It would make it a class C felony for an individual to maliciously and intentionally harm a living dog, cat or horse and provide a court with certain

sentencing options. The measure would not apply to production agriculture, or to lawful activities of hunters and trappers, licensed veterinarians, scientific researchers, or to individuals engaged in lawful defense of life or property.

The Office of Management and Budget presented information on the estimated fiscal impact of this measure. A copy of the fiscal note prepared by the department is attached as an appendix.

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

The fiscal note prepared by OMB states the fiscal impact for this initiated measure cannot be determined.

ATTACH:1

**STATE OF NORTH DAKOTA**  
**OFFICE OF MANAGEMENT AND BUDGET**

600 East Boulevard Ave., Dept. 110 • Bismarck, North Dakota 58505-0400  
FAX - (701) 328-3230

September 26, 2012

Becky Keller  
Senior Fiscal Analyst  
Legislative Council  
State Capitol  
Bismarck ND 58505

Dear Becky:

This letter is in response to your request dated August 13, 2012 regarding the estimated fiscal impact of several initiated measures. Following are my determinations:

- In regard to the petition for the right of farms and ranchers to engage in modern farming and ranching practices – the fiscal impact cannot be determined.
- In regard to the petition requiring a felony conviction for an individual who maliciously and intentionally harms a living dog, cat or horse and providing a court with certain sentencing options – the fiscal impact cannot be determined.
- In regard to the petition relative to prohibiting smoking, including the use of electronic smoking devices, in public places and most places of employment in this state, including certain outdoor areas – the fiscal impact cannot be determined.

If you have any questions about these determinations, please feel free to contact me at 328-4606.

Sincerely,



Pam Sharp  
Director