

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

PROPERTY TAX MEASURE REVIEW COMMITTEE

Monday, April 2, 2012
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative David Drovdal, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives David Drovdal, Tracy Boe, Chuck Damschen, Glen Froseth, Joyce Kingsbury, Kim Koppelman, Ralph Metcalf, Dan Ruby, Clark Williams, Lonny B. Winrich, Steven L. Zaiser; Senators Dwight Cook, Joe Miller, Carolyn C. Nelson, Dave Oehlke, Ronald Sorvaag

Members absent: Representatives Larry Bellew, Wesley R. Belter

Others present: Representative Jerry Kelsh, member of the Legislative Management, was also in attendance.

See [Appendix A](#) for additional persons present.

It was moved by Representative Metcalf, seconded by Representative Kingsbury, and carried on a voice vote that the minutes of the November 2, 2011, meeting be approved as distributed.

PROPERTY TAX MEASURE REVIEW

At the request of Chairman Drovdal, Ms. Kathryn Strombeck, Research Analyst, Tax Department, presented the estimated fiscal impact of initiated measure No. 2 ([Appendix B](#)). Ms. Strombeck said the measure, if approved by North Dakota voters in June 2012, will repeal ad valorem property taxes effective January 1, 2012. She said the annual amount of property taxes that would be eliminated upon successful passage of the measure would total \$812,225,000 for 2012. She said 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.

Ms. Strombeck said the estimated fiscal impact reflects only one year of the 2011-13 biennium. She said the impact for subsequent bienniums would reflect a two-year period. Based on the historical property tax growth rate of 7.7 percent per year, she said, the estimated fiscal impact of the measure for the 2013-15 biennium would be \$1.8 billion.

In response to a question from Representative Ruby, Ms. Strombeck said assumptions included in determining the estimated fiscal impact are consistent with an analysis of the initiated measure provided by the Legislative Council staff at a previous committee meeting.

In response to a question from Senator Cook, Ms. Strombeck said the estimated fiscal impact is based on property taxes collected after considering

amounts provided by the Legislative Assembly for property tax relief.

In response to a question from Representative Ruby, Ms. Strombeck said the estimated fiscal impact includes only the amount of property taxes that would be eliminated and does not include any estimated costs or savings that could result from passage of the initiated measure.

Mr. Robert L. Hale, committee member, sponsoring committee for initiated measure No. 2, Minot, said the estimated fiscal impact should include estimated economic benefits that could be realized if the measure passes. He said the committee should identify legislation that would be necessary upon passage of the initiated measure.

Chairman Drovdal said the committee will identify necessary legislation at a future committee meeting if the measure is approved by the voters in June 2012.

Ms. Susan Beehler, citizen, Mandan, presented testimony ([Appendix C](#)) regarding initiated measure No. 2. She said property taxes are an ineffective, inefficient method to tax citizens for local services. She said North Dakota Century Code allows for a perpetual lien on property which can be exercised if a person becomes delinquent on the payment of property taxes. She said the lien is not affected by any statute of limitation. She expressed concern regarding the increasing debt levels of local governments. She said governments can make the changes necessary to operate without property tax collections as they did when personal property taxes were eliminated a number of years ago.

Mr. Ladd Erickson, McLean County State's Attorney, said the estimated fiscal impact should include all additional costs that would be incurred if the initiated measure passes. He said the Tax Department's fiscal impact estimate does not include the additional funding requests that will be made of the Legislative Assembly to address the increasing needs of local governments specifically related to flooding and oil impacts. He said he disagrees with several assertions made in a report from Beacon Hill Institute that was commissioned by the initiated measure sponsoring committee. He believes the administrative cost of assessing property is overstated in the Beacon Hill report and that state and local governments could not eliminate all full-time equivalent positions related to property value assessment because the initiated measure requires the continuation of this assessment to determine bonding limits for the state and political subdivisions.

In response to a question from Representative Kelsh, Mr. Erickson said based on the Legislative Council's legal analysis of the initiated measure, the measure would require the determination of market value of real and personal property for the purpose of determining debt limits for the state and political subdivisions. He said the measure does not appear to allow any discretion for the Legislative Assembly to exclude any types of personal property.

Senator Cook said local governments are in the process of preparing their 2013 budgets. If the initiated measure is approved, he said, local governments may lose a significant source of their revenue on January 1, 2013. He said a special legislative session would need to be called to determine how funding for political subdivision budgets will be provided beginning on January 1, 2013.

In response to a question from Representative Drovda, the legislative budget analyst and auditor said the estimated cost for a special legislative session is approximately \$50,000 per day.

In response to a question from Senator Miller, the legislative budget analyst and auditor said once the estimated fiscal impact of a measure has been determined, the committee will provide a report to the Legislative Management. He said the Legislative Management will forward the estimated fiscal impact and a summary statement to the Secretary of State for attachment to the ballot. He said the Secretary of State does not change the fiscal impact statement submitted by the Legislative Management.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Drovda provided the following summary of the Legislative Council's legal analysis of the initiated measure:

- Most ad valorem property tax will be eliminated.
- Political subdivisions will continue to be responsible for payment of debt associated with general obligation bonds issued prior to the effective date of the measure and special assessments.
- Political subdivisions may raise additional revenue through sales tax, special assessments, or revenue bonds.
- The effective date of the initiated measure is January 1, 2012.
- Property taxes for investor-owned utilities would be eliminated; however, transmission line taxes for rural electric cooperatives would remain in place.
- Replacement of revenues from the state to political subdivisions is based on 2011 calendar year expenditures from property tax collections. Any additional growth in spending would be at the discretion of the Legislative Assembly.
- Expenditure of funds received from the state will be at the discretion of local governments.

- The Legislative Assembly will determine the "proper" level of funding.
- The Legislative Assembly and, possibly, the court will define "legally imposed obligations."
- The measure's reference to funding to school districts only includes the share of education not funded through state revenue sources. The Legislative Assembly would not be required to maintain the same level of state funding provided to school districts in 2011.
- The measure requires the determination of the market value of real and personal property for the purpose of determining debt limits for the state and political subdivisions.

In response to a question from Senator Oehlke, Ms. Strombeck said since January 1, 2012, coal conversion taxes are being paid under protest.

Ms. Marcy Dickerson, Property Tax Specialist, Tax Department, said shortfall payments paid by the state to a county when coal conversion taxes received by the county are less than in a previous period are not considered a tax.

Senator Cook suggested the committee members review the minutes from the July 2011 meeting of the Education Funding and Taxation Committee which include testimony from the initiated measure sponsoring committee members relating to school funding. These minutes are available at www.legis.nd.gov/assembly/62-2011/interim-info/minutes/left072611minutes.pdf.

Representative Ruby suggested the committee begin defining legal obligations and work on establishing a funding formula for the legally imposed obligations of political subdivisions. He said he will provide a proposed formula to the committee members for their consideration.

Chairman Drovda said the committee will consider drafting legislation if the initiated measure is approved. He said the Legislative Management will determine if the cost of a special session should be included in the estimated fiscal impact information provided to the Secretary of State.

It was moved by Representative Metcalf, seconded by Representative Zaiser, and carried on a voice vote that the chairman and the staff of the Legislative Council prepare a report and present the report and the estimated fiscal impact of initiated measure No. 2 prepared by the Tax Department to the Legislative Management.

No further business appearing, Chairman Drovda adjourned the meeting at 11:15 a.m.

Becky Keller
Senior Fiscal Analyst

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:3