

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE MANAGEMENT

Thursday, September 29, 2016
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Ray Holmberg, Chairman, called the meeting to order at 2:05 p.m.

Members present: Senators Ray Holmberg, Tyler Axness, Jerry Klein, Donald Schaible, Mac Schneider, Connie Triplett, Jessica Unruh, Rich Wardner; Representatives Wesley R. Belter, Al Carlson, Bill Devlin, Jason Dockter, Kathy Hogan, Marvin E. Nelson, Kenton Onstad, Dan Ruby, Jim Schmidt

Others present: John Bjornson, Allen H. Knudson, and Sheila M. Sandness, Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

It was moved by Representative Carlson, seconded by Senator Schaible, and carried on a voice vote that the minutes of the June 16-17, 2015, meeting be approved as distributed.

OPENING REMARKS

Chairman Holmberg said the purpose of this meeting is to fulfill the Legislative Management's statutory responsibility to coordinate the determination of the estimated fiscal impact of initiated measures. He said North Dakota Century Code Section 16.1-01-17 requires the Legislative Management to hold hearings, receive public testimony, and gather information on the estimated fiscal impact of initiated measures. He said the law resulted from passage of a constitutional amendment in 2004 which permits the Legislative Assembly to provide, by law, a procedure through which the Legislative Management may establish an appropriate method for determining the fiscal impact of an initiated measure and for making the information regarding the fiscal impact of the measure available to the public.

Chairman Holmberg said the Secretary of State has notified the Legislative Council office that three initiated measures qualify for the general election ballot. He said the measures include Measure No. 3, an initiated constitutional measure relating to the rights and protection of victims; Measure No. 4, relating to an increase in taxes on cigarettes and tobacco products; and Measure No. 5, relating to the medical use of marijuana.

Chairman Holmberg said the procedure to obtain fiscal information on these measures is similar to the procedure used for fiscal notes during legislative sessions. He said the Legislative Council staff requested the state agencies that appear to have the best information on the impact on the measure or the primary responsibility for compiling and maintaining relevant information to present their determinations at this meeting. He emphasized that the only purpose for holding this meeting is to meet the Legislative Management's statutory responsibility to obtain fiscal information on each measure, and the Legislative Management is not holding this meeting to receive testimony on the merits of any of the measures. He said the committee will consider acceptance of the fiscal impact statements and then consider a motion to direct the Legislative Council to forward accepted statements to the Secretary of State as required by law. He said the Secretary of State is required to make the information available to the public.

INITIATED CONSTITUTIONAL MEASURE RELATING TO THE RIGHTS AND PROTECTION OF VICTIMS - MEASURE NO. 3

This initiated constitutional measure ([Appendix B](#)) would create a new section to Article I of the Constitution of North Dakota to provide rights and protections for crime victims throughout the criminal and juvenile justice systems. Under the measure, crime victims would be afforded the right to be present at court proceedings relating to the release, plea, sentencing, and parole of the accused. In addition, crime victims would be entitled to be notified of any release or escape of the accused and have the right to refuse interviews and requests for information made by the accused or the accused's attorney.

Chairman Holmberg recognized Ms. Pam Sharp, Director, Office of Management and Budget. Ms. Sharp reviewed the fiscal impact statement ([Appendix C](#)) of the Office of Management and Budget (OMB) provided to the Legislative Council. She said OMB estimates the fiscal impact of this initiated measure to be \$1,156,846 for the remainder of the current biennium and \$3,966,330 for the 2017-19 biennium.

In response to a question from Senator Schneider, Ms. Sharp said the information was prepared by several agencies and she has confidence in the agencies fiscal estimates.

INITIATED STATUTORY MEASURE RELATING TO AN INCREASE IN TAXES ON CIGARETTES AND TOBACCO PRODUCTS AND THE ALLOCATION OF THE TAXES - MEASURE NO. 4

This initiated statutory measure ([Appendix D](#)) would amend numerous sections in Chapter 57-36 to increase the separate and additional tax on cigarette sales, create an inventory tax on cigarettes and tobacco products, and increase the excise tax for tobacco products and the levy and assessment of taxes on cigarettes. In general, the effect of the proposed measure would be to increase the excise tax on a package of 20 cigarettes sold in North Dakota from \$.44 to \$2.20.

The measure also would create a new section to Chapter 37-14 to create a veterans' tobacco tax trust fund and would repeal two provisions of statute related to an excise tax on cigarettes and the exemption for taxes on cigarettes and tobacco products given to occupants of the Veterans' Home and the State Hospital. Collections from cigarette and tobacco product taxes would be allocated among North Dakota cities, the general fund, the veterans' tobacco tax trust fund, and the community health trust fund.

Additionally, the measure creates new definitions of inhalation devices, liquid nicotine, and tobacco products, addresses prohibition of tobacco dealers being tobacco distributors, requires distributors to keep additional records, sets requirements for registration of liquid nicotine dealers, and regulates the alteration of liquid nicotine.

Chairman Holmberg recognized Mr. Ryan Rauschenberger, Tax Commissioner, Tax Department, who reviewed the fiscal impact statement ([Appendix E](#)) of the Tax Department provided to the Legislative Council. He said the Tax Department estimates the fiscal impact of this initiated measure to be \$28.7 million for the remainder of the current biennium and \$141.7 million for the 2017-19 biennium. She said the measure would result in a reduction of general fund revenues of \$4.1 million through June 30, 2019, with increases of revenues of \$86.9 million to the veteran's tobacco trust fund, \$86.9 million to the community health trust fund, and \$700,000 to the state aid distribution trust fund for the same period.

In response to a question from Representative Carlson, Mr. Rauschenberger said the Tax Department has only one compact with a tribe, with the Standing Rock Sioux Reservation. He said if the measure passes, any existing compacts would need to be amended to reflect current law. He said the cross border effect of fewer Minnesota residents buying tobacco products in North Dakota is factored in to the estimates, but other potential revenue losses from fewer purchases by those people is not quantified. He said a reduced direct consumption rate of 20 percent was used for calculating cigarette consumption in the estimate.

INITIATED STATUTORY MEASURE RELATING TO THE MEDICAL USE OF MARIJUANA - MEASURE NO. 5

This initiated statutory measure ([Appendix F](#)) would create a new chapter to Title 19 to provide for the medical use of marijuana for defined medical conditions such as cancer, Hepatitis C, and epilepsy. The measure would require the State Department of Health to issue identification cards to qualified patients, caregivers, compassion centers, and other facilities. The measure would create procedures for the monitoring, inventorying, dispensing, and cultivation of marijuana, all of which would be enforced by the department. The measure would allow a qualified patient to receive up to 3 ounces of marijuana with penalties of suspension, revocation, or criminal prosecution for violations.

Chairman Holmberg recognized Ms. Arvy Smith, Deputy State Health Officer, State Department of Health, who reviewed the fiscal impact statement ([Appendix G](#)) of the State Department of Health provided to the Legislative Council. She said the department estimates the fiscal impact of this initiated measure would be a total of \$12.6 million, with additional revenues of \$6 million through June 30, 2019. She said for the department, one-time costs are expected to be \$1,372,931 for the remainder of the current biennium and ongoing costs would be an estimated \$7,352,832 for the 2017-19 biennium. She said additional state revenue would be \$1,218,542 for the remainder of the current biennium and \$4,818,003 for the 2017-19 biennium. She said if started in December 2016, additional operational costs of \$1 million would be incurred. In addition, she said, the Bureau of Criminal Investigation estimates the cost of enforcement to be \$2,786,585 for the 2017-19 biennium.

FISCAL IMPACT STATEMENTS TO BE FORWARDED TO THE SECRETARY OF STATE

It was moved by Representative Devlin, seconded by Senator Wardner, and carried on a roll call vote that the Legislative Management accept the submitted fiscal impact statements and the Legislative Council forward the accepted fiscal impact statements for Measures Nos. 3, 4, and 5 to the Secretary of State. Senators Holmberg, Axness, Klein, Schaible, Schneider, Unruh, and Wardner and Representatives Belter, Carlson, Devlin, Dockter, Hogan, Onstad, and Schmidt voted "aye." No negative votes were cast.

NAMING OF NEW LEGISLATIVE COMMITTEE ROOMS

The committee considered names for the three new committee rooms in the judicial wing. Attached as ([Appendix H](#)), is a diagram of the rooms. Rooms 132A and 132B can be used individually or as a large hearing room and Room 133 is a separate committee room. Chairman Holmberg said the names Coteau Room and Sheyenne River Room have been suggested and fit with the naming used for the other legislative meeting rooms.

It was moved by Senator Wardner, seconded by Senator Schneider, and carried on a roll call vote that the Legislative Management recommend that Rooms 132A and 132B be named Coteau A Room and Coteau B Room and Room 133 be named the Sheyenne River Room. Senators Holmberg, Axness, Klein, Schaible, Schneider, Unruh, and Wardner and Representatives Belter, Carlson, Devlin, Dockter, Hogan, Onstad, and Schmidt voted "aye." No negative votes were cast.

Chairman Holmberg said the next meeting of the Legislative Management would be Wednesday and Thursday, November 16-17, 2016, to receive the reports of interim committees.

It was moved by Senator Axness, seconded by Senator Klein, and carried on a voice vote that the meeting be adjourned.

No further business appearing, Chairman Holmberg adjourned the meeting at 3:10 p.m.

Jim W. Smith
Director

ATTACH:8