



LEGISLATIVE MANAGEMENT

Wednesday, April 3, 2024
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Mike Lefor, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Mike Lefor*, Glenn Bosch*, Josh Bosch*, Zachary Ista*, Ben Koppelman*, Paul J. Thomas*, Robin Weisz*; Senators Brad Bekkedahl*, Kathy Hogan*, David Hogue*, Jerry Klein*, Tim Mathern*, Janne Myrdal*, Donald Schaible*

Members absent: Representatives Dennis Johnson, Emily O'Brien; Senator Kyle Davison

Others present: Claire Ness, Chief Deputy Attorney General, Bismarck; Michael Howe, Secretary of State, Bismarck

Emily Thompson, Legislative Council, Bismarck

**Attended remotely*

Chairman Lefor noted the purpose of the meeting is to fulfill the Legislative Management's statutory responsibility to coordinate the determination of the estimated fiscal impact of initiated measures. He noted only one initiated measure qualified for the primary election ballot - Initiated Measure No. 1 which would impose congressional term limits.

Chairman Lefor called on Mr. Michael Howe, Secretary of State, to present a fiscal impact statement [link letter from Howe] for Measure No. 1. Mr. Howe noted:

- If adopted, the measure is expected to have ~~is~~ no fiscal impact on his office.
- He does not know if there will be litigation if the measure is adopted.

In response to questions from committee members, Mr. Howe noted:

- Specific language in the measure requires the Attorney General to zealously defend the constitutionality of the measure.
- He is not aware of any congressional candidates from the state during this election cycle who would exceed the age limits of the measure, but there were members of the congressional delegation years ago who were over the age of 80.

Chairman Lefor called on Ms. Claire Ness, Chief Deputy Attorney General, to address questions regarding the constitutionality of the measure. Ms. Ness noted:

- There could be facial or as applied challenges to the measure.
- It is difficult to estimate the potential cost of litigation although a minimum cost of litigation likely would be at least \$300,000-.
- Litigation costs are dependent upon several factors, including whether out-of-state special counsel will be hired.

- The cost of an appeal to the United States Supreme Court easily could cost more than \$1 million.
- Supreme Court precedent in decisions relating to term limits clearly stated only the United States Constitution sets qualifications for federal officers.
- She is not aware of any split of authority among the circuit courts with respect to the setting of qualifications for members of Congress.
- She is not aware of any provision similar to the provision in the measure which requires a court to act within 60 days after a challenge is filed.

In response to a question from Chairman Lefor, Mr. Bjornson noted the committee may include within its fiscal impact statement the information provided by Ms. Ness.

Committee members noted the estimate of \$1 million to fully litigate the constitutionality of the measure may be below the actual cost based upon other litigation costs, particularly because supporters of the measure have indicated part of the purpose of the measure is to litigate its constitutionality which likely would involve review by the United States Supreme Court.

In response to a question from Chairman Lefor, Mr. Howe noted because of the deadlines for ballot preparation, the fiscal impact statement is needed by Monday, April 8.

It was moved by Representative Koppelman, seconded by Senator Mathern, and carried on a roll call vote that the committee accept the submitted fiscal impact statement for Measure No. 1 and the estimate of litigation costs of \$1 million, and request the Legislative Council to forward the fiscal impact statement to the Secretary of State. Representatives Lefor, Bosch, Boschee, Ista, Koppelman, Thomas, and Weisz and Senators Bekkedahl, Hogan, Hogue, Klein, Mathern, Myrdal, and Schaible voted "aye." No negative votes were cast.

Chairman Lefor announced the meeting dates for the Legislative Management to receive final reports from interim committees will be November 13-14, 2024.

No further business appearing, Chairman Lefor adjourned the meeting at 10:33 a.m.

John Bjornson
Director

ATTACH: