

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL sos@nd.gov

August 15, 2011

TO: Rep. David Drovdal, Chairman, and Members of the Property Tax Measure Review Committee

FR: Al Jaeger, Secretary of State

RE: Repeal of Property Tax, Measure # 2 – June 12, 2012 – Statewide Election

According to the committee's invitation letter dated July 22, 2011, I have been requested "to provide background information to the committee on the effective date of the [subject] measure and on any changes made to the effective date."

The effective date of January 1, 2012, that will be on the ballot for Measure # 2 was included in Section 7 of the petition received by the Secretary of State from the Sponsoring Committee on March 17, 2010 (Exhibit A, page A5).

For the following reasons and as it has been the practice for every petition submitted to the Secretary of State, changes were not made by the Secretary of State to any portion of the text of the petition, as it was submitted by the Sponsoring Committee on March 17, 2010.

1. Section 2 of Article III of the North Dakota Constitution is as follows (underlined emphasis added):

"A petition to initiate or to refer a measure must be presented to the secretary of state for approval as to form. A request for approval must be presented over the names and signatures of twenty-five or more electors as sponsors, one of whom must be designated as chairman of the sponsoring committee. The secretary of state shall approve the petition for circulation if it is in proper form and contains the names and addresses of the sponsors and the full text of the measure.

The legislative assembly may 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."

2. The role of the Secretary of State, as it relates to a petition, was affirmed in a North Dakota Supreme Court decision, *Municipal Services Corporation v Kusler*, 490 N.W.2d 700, September 17, 1992. Here are two pertinent excerpts from that decision (underlined emphasis added):
 - a. Form is to be distinguished from Substance. Art. III, § 2, N.D. Const, limits the Secretary's review to whether the petition "is in proper form and contains the names and addresses of the sponsors and the full text of the measure." It does not authorize a review of the substance or merits of the text of the measure. When a petition is challenged, neither the Secretary nor this court should be concerned with the substance or merit of the proposed measure, because under our system of government, the resolution of a proposal's merit rests with the electorate. (underlined emphasis added)

- b. We hold that the Secretary's constitutional responsibility under Art. III, § 2, N.D. Const., to approve the form of a petition, is limited to ascertaining whether the petition complies with the statutory requirements for form and whether the petition contains impermissible, extraneous statements. In reviewing a petition for form, the Secretary must not be concerned with the merits of the petition or with the substance of its text.

Therefore, based on the state's constitution and the court case, the Secretary of State's review of the petition was limited to form and the addition of a petition title per the provisions of N.D.C.C. § 16.1-01-09(1)(b) (Exhibit B). After the proof copy was received with the corrections noted in the Secretary of State's letter of March 25, 2010 (Exhibit C), the petition was approved for circulation on March 29, 2010 (Exhibit D).

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 17, 2010

Charlene Nelson
Chairman
Sponsoring Committee
15703 31st Street SE
Casselton ND 58012-9727

RE: Proposed constitutional initiative relating to elimination of property tax and source of replacement revenue

Dear Ms. Nelson,

On this day, the Secretary of State's office received your request for approval to circulate the above-mentioned constitutional initiative petition.

According to Section 16.1-01-09 of the North Dakota Century Code (N.D.C.C.), "Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval."

That section of law further specifies that, "The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays."

Based on the time line stipulated in state law, the review cannot be completed earlier than Wednesday, March 24, 2010, nor later than Friday, March 26, 2010.

When the review is complete, you will be notified in writing.

Sincerely,

Alvin A. Jaeger
Secretary of State

Cc: Attorney General Wayne Stenehjem

A1

INITIATIVE PETITION
TO THE SECRETARY OF STATE
STATE OF NORTH DAKOTA

RECEIVED

MAR 17 2010

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Charlene Nelson, Chairman 15703 31 st St. SE Casselton, ND 58012	Ronald E. Almquist 2700 74 th St. NW Minot, ND 58703	James T. Lee 7701 289 th Ave. SE Max, ND 58759
John Fjeldahl 301 254 th St. SW Berthold, ND 58718	Martin J. Riske 2901 27 th St. SE Fargo, ND 58103	Richard Ames 604 6 th St. N Wahpeton, ND 58075
Isaac Stegman 10329 County Road 2 Neché, ND 58265	Charles Walen 122 Golden Spike Rd. West Fargo, ND 58078	Del Ruff P.O. Box 247 826 8 th Ave. E West Fargo, ND 58078
Dan Ruby 4620 46 th Ave. NW Minot, ND 58703	Larry Miller 3326 113 th Ave. SE Valley City, ND 58072	LeRoy J. Neubauer 810 7 th St. SE Valley City, ND 58072
Sue Evans 1220 1 st Ave. W Williston, ND 58801	Keith Collville 3329 114 th Ave. SE Valley City, ND 58072	Jerome W. Behm 15500 11 th Ave. SW Burlington, ND 58722
Richard Allende 820 1 st Ave. SW Minot, ND 58701	Robert J. Drake 1155 6 th St. SE Valley City, ND 58072	Casey Collville 1013 Riverview Dr. Valley City, ND 58072
Vern Brossarl 516 W. Broadway Williston, ND 58801	Robert L. Hale 5750 16 th Ave. SW Minot, ND 58701	Don Worcester 1390 6 th St. E West Fargo, ND 58078
Renae Mitchell 2414 Lilac Lane Fargo, ND 58102	Gene Collville 3609 117 th Ave. SE Valley City, ND 58072	Charles Cartier 13532 62 nd St. NW Williston, ND 58801
	Dennis Stillings 2225 123 rd Ave. SE Valley City, ND 58072	

BALLOT TITLE

This measure prohibits imposition of property taxes, poll taxes, and acreage taxes in the state effective January 1, 2012.

An Initiated Measure for the amendment of sections 1, 4, 14, 15, and 16 of article X of the Constitution of North Dakota, relating to elimination of property taxes; to repeal sections 5, 6, 7, 9, and 10 of article X of the Constitution of North Dakota, relating to elimination of property taxes, poll taxes, and acreage taxes; and to provide an effective date.

FULL TEXT OF THE MEASURE

IF THE MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 1. The legislative assembly shall be and all political subdivisions are prohibited from raising revenue to defray the expenses of the state or political subdivisions through the levying of a tax on the assessed value of real or personal property.

SECTION 2. AMENDMENT. Section 4 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 4. ~~All taxable property except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization in a manner prescribed by such state board or commission as may be provided by law. But should any railroad allow any portion of its railway to be used for any purpose other than the operation of a railroad thereon, such portion of its railway, while so used shall be assessed in a manner provided for the assessment of other real property:~~

1. Taxes upon real property which were used before 2012 to fund the operations of counties, cities, townships, school districts, park districts, water districts, irrigation districts, fire protection districts, soil conservation districts, and other political subdivisions with authority to levy property taxes must be replaced with revenues from the proceeds of state sales taxes, individual and corporate income taxes, oil and gas production and extraction taxes, tobacco taxes, lottery revenues, financial institutions taxes, and other state resources.
2. The legislative assembly shall direct as much oil and gas production and extraction tax, tobacco tax, lottery revenue, and financial institutions tax as necessary to fund the share of elementary and secondary education not funded through state revenue sources before 2012. The state cannot condition the expenditure of this portion of elementary and secondary education funding in any manner and school boards have sole discretion in how to allocate the expenditure of this portion of the elementary and secondary funding provided.
3. The legislative assembly shall direct a share of sales taxes, individual and corporate income taxes, insurance premium taxes, alcoholic beverage taxes, mineral leasing fees, and gaming taxes and any oil and gas production and extraction taxes, tobacco taxes, lottery revenues, and financial institutions taxes not allocated to elementary and secondary schools to counties, cities, and other political subdivisions according to a formula devised by the legislative assembly to fully and properly fund the legally imposed obligations of the counties, cities, townships, and other political subdivisions. The allocation of the amount determined by the legislative assembly must be provided to the governing bodies of counties, cities, townships, and other political subdivisions. How counties, cities, townships, and other political subdivisions choose to allocate the expenditures of this revenue is at the sole direction of the governing bodies of counties, cities, townships, and other political subdivisions.

SECTION 3. AMENDMENT. Section 14 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 14.

1. Notwithstanding any other provision in the constitution, and for the purpose of promoting the economic growth of the state, the development of its natural resources, and the prosperity and welfare of its people, the state may issue bonds and use the proceeds thereof to make loans to privately or cooperatively owned enterprises to plan, construct, acquire, equip, improve, and extend facilities for converting natural resources into power and generating and transmitting such power, and to acquire real and personal property and water and mineral rights needed for such facilities.
2. The state may issue general obligation bonds for this purpose to an amount which, with all outstanding general obligation bonds, less the amount of all money on hand and taxes in process of collection which are appropriated for their payment, will not exceed five percent of the ~~full and true~~ market value of all of the ~~taxable~~ property in the state, to be ascertained by the last assessment made for state and county purposes; ~~but nothing herein shall~~. The provision does not increase or diminish the limitations established by other provisions of the constitution on the amount of bonds therein authorized to be issued.
3. The state may also issue revenue bonds for the purpose of providing part or all of the funds required for any project undertaken under subsection 1, payable solely from sums realized from payments of principal and interest on money loaned for such project, and from other similar projects if so determined by the ~~legislature~~ legislative assembly, and from the liquidation of security given for such payments. Revenue bonds issued for any project shall not exceed the cost thereof, including all expenses reasonably incurred to complete and finance the project, but shall not be subject to any other limitation of amount.
4. The full faith and credit of the state shall be pledged for the prompt and full payment of all bonds issued under subsection 2. Its obligation with respect to bonds issued under subsection 3 shall be limited to the prompt and full performance of such covenants as the ~~legislature~~ legislative assembly may authorize to be made respecting the enforcing of the provisions of underlying loan agreements and the segregation, accounting, and application of bond proceeds and of loan payments and other security pledged for the payment of the bonds. All bonds authorized by subsections 1 to 3, inclusive, shall mature within forty years from their respective dates of issue, but may be refunded at or before maturity in such manner and for such term and upon such conditions as the ~~legislature~~ legislative assembly may direct. Any such bonds may, but need not be, secured by mortgage upon real or personal property acquired with the proceeds of the same or any other issue of general obligation or revenue bonds, or upon other property mortgaged by the debtor. Pledges of revenues and mortgages of property securing bonds of any issue may be prior or subordinate to or on a parity with pledges and mortgages securing any other issue of general obligation or revenue bonds, as determined by the ~~legislature~~ legislative assembly from time to time in conformity with any provisions made for the security of outstanding bonds.
5. The ~~legislature~~ legislative assembly shall pass such laws as are appropriate to implement this amendment.
6. If any subsection of this amendment, or any part of a subsection, or any application thereof to particular circumstances should be held invalid for any reason, such invalidity shall not affect the validity of all remaining provisions of this amendment which may be given effect without that which is declared invalid, as applied to any circumstances and for this purpose all subsections and parts of subsections and applications thereof are declared to be severable.

SECTION 4. AMENDMENT. Section 15 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 15. The debt of any county, township, city, ~~town~~, school district, or any other political subdivision, shall never exceed five per centum upon the ~~assessed~~ market value of the ~~taxable~~ property therein; provided that any incorporated city may, by a two-thirds vote, increase such indebtedness three per centum on such ~~assessed~~ market value beyond said five per centum limit, and a school district, by a majority vote may increase such indebtedness five percent on such ~~assessed~~ market value beyond said five per centum limit; provided also that any county or city by a majority vote may issue bonds upon any revenue-producing utility owned by such county or city, or for the purchasing or acquiring the same or building or establishment thereof, in amounts not exceeding the physical value of such utility, industry or enterprise. In estimating the indebtedness which a city, county, township, school district, or any other political subdivision may incur, the entire amount, exclusive of the bonds upon said revenue-producing utilities, whether contracted

prior or subsequent to the adoption of this constitution, shall be included; provided further that any incorporated city may become indebted in any amount not exceeding four per centum of such assessed market value without regard to the existing indebtedness of such city for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purposes whatever. All bonds and obligations in excess of the amount of indebtedness permitted by this constitution, given by any city, county, township, town, school district, or any other political subdivision shall be void.

SECTION 5. AMENDMENT. Section 16 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 16. Any city, county, township, town, school district, or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax revenues sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

SECTION 6. REPEAL. Sections 5, 6, 7, 9, and 10 of article X of the Constitution of North Dakota are repealed.

SECTION 7. EFFECTIVE DATE. If approved by the voters, this measure becomes effective on January 1, 2012.

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the person circulating the petition.

QUALIFIED ELECTORS

MONTH, DAY, YEAR	NAME OF QUALIFIED ELECTOR	RESIDENTIAL ADDRESSES OR COMPLETE RURAL ROUTE OR GENERAL DELIVERY ADDRESS	CITY, STATE, ZIP CODE
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44.			

Alc

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF _____)
 (County where signed)

I, _____, being sworn, say that I am a qualified elector; that I reside at
(Circulator)
_____; that each signature contained on the attached
(address)
petition was executed in my presence; and that to the best of my knowledge and belief each
person whose signature appears on the attached petition is a qualified elector; and that each
signature contained on the approach petition is the genuine signature of the person whose name it
purports to be.

(Signature of circulator)

Subscribed and sworn to before me on _____, 2010, at
_____, North Dakota.
(City)

(NOTARY SEAL / STAMP)

(Signature of notary)

Notary Public

My commission expires _____

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 22, 2010

The Honorable Wayne K. Stenehjem
Attorney General
State of North Dakota
600 E Boulevard Avenue Dept 125
Bismarck ND 58505-0040

Dear Attorney General Stenehjem,

On Wednesday, March 17, 2010, a sponsoring committee filed a request with my office to approve for circulation a petition related to the elimination of property tax. The petition is to be circulated for obtaining signatures in sufficient number to require the measure to be placed upon the ballot for consideration by the voters of North Dakota at a future statewide election.

As provided for in N.D.C.C. § 16.1-01-09 (1)(c), when a petition is submitted for approval, the Secretary of State and the Attorney General must complete the review of the petition in not less than five, nor more than seven, business days (excluding Saturday, Sunday and Holidays). Accordingly, the earliest date allowed to provide the petition title to the sponsoring committee is Wednesday, March 24, 2010, and no later than Friday, March 26, 2010.

N.D.C.C. § 16.1-01-09(1)(b) requires the Secretary of State to draft a short and concise statement fairly representing the measure and submit it to the Attorney General for approval or disapproval. It is as follows:

This initiated measure would amend sections 1, 4, 14, 15, and 16 of article X of the North Dakota Constitution and repeal sections 5, 6, 7, 9 and 10 of that same article, eliminating property taxes, poll taxes and acreage taxes, effective January 1, 2012. The measure would replace the lost revenues with allocations of various state-level taxes and other revenues, without restrictions as to how these revenues may be spent.

I have attached, as submitted, a copy of the proposed petition. In addition to providing the sponsoring committee with an approved petition title, this office may ask it to make certain corrections and formatting changes to the petition before final approval is granted for its circulation.

If you have any questions or need additional information, please contact Lee Ann Oliver, Elections Specialist, at 328-4146, or me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alvin A. Jaeger".

Alvin A. Jaeger
Secretary of State

Enclosure

B1

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL sos@nd.gov

March 25, 2010

Charlene Nelson
Chairman
Sponsoring Committee
15703 31st Street SE
Casselton ND 58012-9727

RE: Proposed constitutional initiative relating to elimination of property tax and source of replacement revenue

Dear Ms. Nelson,

In accordance with state law, the Secretary of State's office has reviewed the subject petition received on March 17, 2010, related to a proposed statutory initiative relating to legislator bill certification and posting of bill prior to final vote

N.D.C.C. § 16.1-01-09(1) requires the Secretary of State to draft a short and concise statement, approved by the Attorney General, which fairly represents the measure. The enclosed letter, identified as Appendix A, contains the Attorney General's approved petition title.

The font size for the petition must be legible and equal to at least a 12-point Times Roman style. Insert the petition title into the petition using the identical wording specified in the Attorney General's letter. In addition, all of the format changes identified on Appendix B must be made to the petition.

After the petition title is inserted and the format changes are made, please submit a proof of the petition to this office for review and final approval. Once final approval is granted, the petition may be circulated for signatures.

If you have questions or need additional information, please contact Lee Ann Oliver, Election Specialist, at (701) 328-4146, at (800) 352-0867, ext. 8-4146, or via e-mail at loliver@nd.gov or me.

Sincerely,

Alvin A Jaeger
Secretary of State

Enclosure

C1



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210 FAX (701) 328-2226
www.ag.nd.gov

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MAR 24 2010

Sec. of State

March 24, 2010

The Honorable Alvin A. Jaeger
Secretary of State
600 East Boulevard Avenue
Bismarck, ND 58505-0500

Dear Secretary of State Jaeger:

Thank you for your March 17, 2010, letter submitting a proposed petition title for the initiated measure to amend the North Dakota Constitution. The petition title for this initiated measure should read:

This initiated measure would amend sections 1, 4, 14, 15, and 16 of article X of the North Dakota Constitution and repeal sections 5, 6, 7, 9, and 10 of that same article, eliminating property taxes, poll taxes and acreage taxes, effective January 1, 2012. The measure would replace the lost revenues with allocations of various state-level taxes and other revenues, without restrictions on how these revenues may be spent.

The above petition title is hereby approved for inclusion within the petition for the initiated measure pursuant to N.D.C.C. § 16.1-01-09(1).

Sincerely,

Wayne Stenehjem
Attorney General

jjf/pg

**Corrections to Petition
Relating to Elimination of Property Tax and Source of Replacement Revenue
(Appendix B)**

1. **Page one:** Make the following changes to the sponsoring committee members according to the underscores and deletions noted. We need the name to match the 'signature line' on the sponsoring committee member's affidavit.

Charlene <u>E</u> Nelson 15703 31 st St SE Casselton ND 58012	James T Lee 7701 289 th Ave SE Max, ND 58759	Richard <u>W</u> Ames 604 6 th St N Wahpeton ND 58075	Isaac <u>E</u> Stegman 10329 County Road 2 Neché ND 58265
Charles <u>L</u> Walen 122 Golden Spike Rd West Fargo ND 58078	Larry <u>J</u> Miller 3326 113 th Ave SE Valley City ND 58072	Keith Colville -Colville 3329 114 th Ave SE Valley City ND 58072	Robert J Drake 1155 6 th St SE Valley City ND 58072
Casey Colville Colville 1013 Riverview Dr Valley City ND 58072	Donald <u>R</u> Worcester 1390 6 th St E West Fargo ND 58078	Gene Colville Colville 3609 117 th Ave Se Valley City ND 58072	

2. **Page two:** Change BALLOT TITLE to PETITION TITLE.
3. **Page two:** After the title, **FULL TEXT OF THE MEASURE**, you will need to change the wording of the next paragraph to match exactly what is found below. It will also need to be bolded.
- IF MATERIAL IS UNDERScoreD, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERScoreD OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.**
4. **Page two:** You will need to indent the following sections; SECTION 1. AMENDMENT, SECTION 1, SECTION 2. AMENDMENT, and SECTION 4.
5. **Page three:** You will need to indent the following sections; SECTION 3. AMENDMENT, SECTION 14, SECTION 4.AMENDMENT, and SECTION 15.
6. **Page three:** You will need to underline the numbers; 1, 2, 3, 4, 5, and 6 and also you need to move to the left or justify the numbers 5 and 6 so that they line up with numbers 1 through 4.
7. **Page three:** Within section 15 of the full text of the petition, you will need to make the single paragraph into 2 paragraphs so that it matches the current section of code. The second paragraph starts with the sentence(In estimating the indebtedness which a.....)
8. **Page four:** You will need to indent the following sections; SECTION 5, AMENDMENT, SECTION 16, SECTION 6 REPEAL, and SECTION 7. EFFECTIVE DATE.
9. **Page four:** In the, INSTRUCTIONS TO PETITION SIGNERS, paragraph you will need to change the word person to individual in the last sentence. It should read as follows: Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.
10. **Page four:** In the third column under Qualified Electors you need to change the word ADDRESSES to ADDRESS.
11. **Page five:** All words that are found within the parenthesis need to be in lower case. For example you now have (County where signed) it needs to be (county where signed).
12. **Page five:** Change the word approach to attached in the later section of the actual affidavit wording. It should read (and that each signature contained on the ~~approach~~attached petition is the genuine....)

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March 29, 2010

Charlene Nelson
Chairman
Sponsoring Committee
15703 31st Street SE
Casselton ND 58012-9727

RE: Proposed constitutional initiative relating to elimination of property tax and source of replacement revenue

Dear Ms. Nelson,

The Secretary of State's office has completed its review of the petition proof provided to us and I have approved it for circulation.

To place a constitutional initiative on the ballot, a sponsoring committee must deliver petitions to the Secretary of State containing the valid signatures of qualified North Dakota electors equal to at least 4% of the resident population of North Dakota (as determined by the most recent federal census). The minimum number of qualified signatures is 25,688.

According to North Dakota Century Code (N.D.C.C.) § 16.1-01-09(7), the signatures to place a measure on the ballot must be obtained within one year after the Secretary of State has approved the petition for circulation. The one-year period will end on Tuesday, March 29, 2011.

The North Dakota Constitution, Article III, Section 5, stipulates an initiative petition must be submitted not less than ninety days before the statewide election at which the measure is to be placed on the ballot. If your committee intends the measure to be placed on the November 2, 2010, ballot, a sufficient number of valid signatures must be submitted to the Secretary of State prior to midnight on Wednesday, August 4, 2010.

If you anticipate submitting petitions to this office after 5:00 p.m., but prior to midnight, on the August deadline date, please contact this office in advance so a staff member will be present to receive them. Upon receipt, the petitions will be reviewed according to the provisions of N.D.C.C. § 16.1-01-10.

If petitions containing a sufficient number of signatures are submitted after the deadline for the November ballot, the measure will be placed on the ballot for the statewide election on June 12, 2012, unless a special election is called earlier.

Only qualified North Dakota electors are allowed to circulate petitions. The circulator must personally witness the signature being affixed to the petition by each qualified elector who signs the petition. The petition must remain in the physical possession of the qualified North Dakota circulator even though others, who may not be qualified electors in the State of North Dakota, are accompanying the circulator. Petitions left unattended are considered improperly circulated petitions and will not be accepted. Improper signing and circulating practices may result in the disqualification of an entire individual petition.

D/

Charlene Nelson
March 29, 2010
Page 2


On each petition submitted, the circulator of the petition is required to swear before a notary public that he or she has circulated it in the manner required by law and that he or she witnessed each signature being affixed. A petition is disqualified, if a member of the sponsoring committee, who is a notary, notarizes the signature of the circulator on the affidavit printed at the end of the petition.

The law allows a circulator to be paid a salary and to be reimbursed for expenses. It is illegal, however, to pay a circulator, or for a circulator to receive a salary, that is based on the number of signatures obtained by that circulator. If the sponsoring committee does pay or offers to pay a circulator, N.D.C.C. § 16.1-01-12(11) requires the sponsoring committee to notify the Secretary of State of its intentions prior to submitting any petitions to our office. For filing purposes, a form titled, Sponsoring Committee Statement of Intent of Remuneration (SFN 11516), is enclosed.

The sponsoring committee is required by N.D.C.C. § 16.1-01-12 (11) to comply with the campaign contribution reporting requirements in N.D.C.C., Chapter 16.1-08.1.

If you have questions or need additional information, please contact either Lee Ann Oliver, Election Specialist, at (701) 328-4146, (800) 352-0867, ext. 8-4146, through e-mail at loliver@nd.gov or me.

Sincerely,



Alvin A. Jaeger
Secretary of State

Enclosures

Petition Time line
Sponsoring Committee Statement Intent of Remuneration SFN 11516
Initiating and Referring Law in North Dakota (2009-20011)

INITIATIVE PETITION
TO THE SECRETARY OF STATE
STATE OF NORTH DAKOTA

Approved Copy
RECEIVED

MAR 29 2010

SEC. OF STATE

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Charlene E. Nelson, Chairman 15703 31 st St. SE Casselton, ND 58012	Ronald E. Almquist 2700 74 th St. NW Minot, ND 58703	James Lee 7701 289 th Ave. SE Max, ND 58759
John Fjeldahl 301 254 th St. SW Berthold, ND 58718	Martin J. Riske 2901 27 th St. SE Fargo, ND 58103	Richard W. Ames 604 6 th St. N Wahpeton, ND 58075
Isaac E. Stegman 10329 County Road 2 Neche, ND 58265	Charles L. Walen 122 Golden Spike Rd. West Fargo, ND 58078	Del Ruff P.O. Box 247 826 8 th Ave. E West Fargo, ND 58078
Dan Ruby 4620 46 th Ave. NW Minot, ND 58703	Larry J. Miller 3326 113 th Ave. SE Valley City, ND 58072	LeRoy J. Neubauer 810 7 th St. SE Valley City, ND 58072
Sue Evans 1220 1 st Ave. W Williston, ND 58801	Keith Colville 3329 114 th Ave. SE Valley City, ND 58072	Jerome W. Behm 15500 11 th Ave. SW Burlington, ND 58722
Richard Allende 820 1 st Ave. SW Minot, ND 58701	Robert Drake 1155 6 th St. SE Valley City, ND 58072	Casey Colville 1013 Riverview Dr. Valley City, ND 58072
Vern Brossart 516 W. Broadway Williston, ND 58801	Robert L. Hale 5750 16 th Ave. SW Minot, ND 58701	Donald R. Worcester 1390 6 th St. E West Fargo, ND 58078
Renae Mitchell 2414 Lilac Lane Fargo, ND 58102	Gene Colville 3609 117 th Ave. SE Valley City, ND 58072	Charles Cartier 13532 62 nd St. NW Williston, ND 58801
	Dennis Stillings 2225 123 rd Ave. SE Valley City, ND 58072	

PETITION TITLE

This initiated measure would amend sections 1, 4, 14, 15, and 16 of article X of the North Dakota Constitution and repeal sections 5, 6, 7, 9, and 10 of that same article, eliminating property taxes, poll taxes and acreage taxes, effective January 1, 2012. The measure would replace the lost revenues with allocations of various state-level taxes and other revenues, without restrictions on how these revenues may be spent.

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 1. The legislative assembly shall be and all political subdivisions are prohibited from raising revenue to defray the expenses of the state or political subdivisions through the levying of a tax on the assessed value of real or personal property.

SECTION 2. AMENDMENT. Section 4 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 4. ~~All taxable property except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization in a manner prescribed by such state board or commission as may be provided by law. But should any railroad allow any portion of its railway to be used for any purpose other than the operation of a railroad thereon, such portion of its railway, while so used shall be assessed in a manner provided for the assessment of other real property.~~

1. Taxes upon real property which were used before 2012 to fund the operations of counties, cities, townships, school districts, park districts, water districts, irrigation districts, fire protection districts, soil conservation districts, and other political subdivisions with authority to levy property taxes must be replaced with revenues from the proceeds of state sales taxes, individual and corporate income taxes, oil and gas production and extraction taxes, tobacco taxes, lottery revenues, financial institutions taxes, and other state resources.
2. The legislative assembly shall direct as much oil and gas production and extraction tax, tobacco tax, lottery revenue, and financial institutions tax as necessary to fund the share of elementary and secondary education not funded through state revenue sources before 2012. The state cannot condition the expenditure of this portion of elementary and secondary education funding in any manner and school boards have sole discretion in how to allocate the expenditure of this portion of the elementary and secondary funding provided.
3. The legislative assembly shall direct a share of sales taxes, individual and corporate income taxes, insurance premium taxes, alcoholic beverage taxes, mineral leasing fees, and gaming taxes and any oil and gas production and extraction taxes, tobacco taxes, lottery revenues, and financial institutions taxes not allocated to elementary and secondary schools to counties, cities, and other political subdivisions according to a formula devised by the legislative assembly to fully and properly fund the legally imposed obligations of the counties, cities, townships, *Dy*

and other political subdivisions. The allocation of the amount determined by the legislative assembly must be provided to the governing bodies of counties, cities, townships, and other political subdivisions. How counties, cities, townships, and other political subdivisions choose to allocate the expenditures of this revenue is at the sole direction of the governing bodies of counties, cities, townships, and other political subdivisions.

SECTION 3. AMENDMENT. Section 14 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 14.

1. Notwithstanding any other provision in the constitution, and for the purpose of promoting the economic growth of the state, the development of its natural resources, and the prosperity and welfare of its people, the state may issue bonds and use the proceeds thereof to make loans to privately or cooperatively owned enterprises to plan, construct, acquire, equip, improve, and extend facilities for converting natural resources into power and generating and transmitting such power, and to acquire real and personal property and water and mineral rights needed for such facilities.
2. The state may issue general obligation bonds for this purpose to an amount which, with all outstanding general obligation bonds, less the amount of all money on hand and taxes in process of collection which are appropriated for their payment, will not exceed five percent of the ~~full and true~~ market value of all of the taxable property in the state, to be ascertained by the last assessment made for state and county purposes; ~~but nothing herein shall.~~ The provision does not increase or diminish the limitations established by other provisions of the constitution on the amount of bonds therein authorized to be issued.
3. The state may also issue revenue bonds for the purpose of providing part or all of the funds required for any project undertaken under subsection 1, payable solely from sums realized from payments of principal and interest on money loaned for such project, and from other similar projects if so determined by the ~~legislature~~ legislative assembly, and from the liquidation of security given for such payments. Revenue bonds issued for any project shall not exceed the cost thereof, including all expenses reasonably incurred to complete and finance the project, but shall not be subject to any other limitation of amount.
4. The full faith and credit of the state shall be pledged for the prompt and full payment of all bonds issued under subsection 2. Its obligation with respect to bonds issued under subsection 3 shall be limited to the prompt and full performance of such covenants as the ~~legislature~~ legislative assembly may authorize to be made respecting the enforcing of the provisions of underlying loan agreements and the segregation, accounting, and application of bond proceeds and of loan payments and other security pledged for the payment of the bonds. All bonds authorized by subsections 1 to 3, inclusive, shall mature within forty years from their respective dates of issue, but may be refunded at or before maturity in such manner and for such term and upon such conditions as the ~~legislature~~ legislative assembly may direct. Any such bonds may, but need not be, secured by mortgage upon real or personal property acquired with the proceeds of the same or any other issue of general obligation or revenue bonds, or upon other property mortgaged by the debtor. Pledges of revenues and mortgages of property securing bonds of any issue may be prior or subordinate to or on a parity with pledges and mortgages securing any other issue of general obligation or revenue bonds, as determined by the ~~legislature~~ legislative assembly from time to time in conformity with any provisions made for the security of outstanding bonds.
5. The ~~legislature~~ legislative assembly shall pass such laws as are appropriate to implement this amendment.
6. If any subsection of this amendment, or any part of a subsection, or any application thereof to particular circumstances should be held invalid for any reason, such invalidity shall not affect the validity of all remaining provisions of this amendment which may be given effect without that which is declared invalid, as applied to any circumstances and for this purpose all subsections and parts of subsections and applications thereof are declared to be severable.

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SECTION 4. AMENDMENT. Section 15 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 15. The debt of any county, township, city, ~~town~~, school district, or any other political subdivision, shall never exceed five per centum upon the assessed market value of the taxable property therein; provided that any incorporated city may, by a two-thirds vote, increase such indebtedness three per centum on such assessed market value beyond said five per centum limit, and a school district, by a majority vote may increase such indebtedness five percent on such assessed market value beyond said five per centum limit; provided also that any county or city by a majority vote may issue bonds upon any revenue-producing utility owned by such county or city, or for the purchasing or acquiring the same or building or establishment thereof, in amounts not exceeding the physical value of such utility, industry or enterprise.

In estimating the indebtedness which a city, county, township, school district, or any other political subdivision may incur, the entire amount, exclusive of the bonds upon said revenue-producing utilities, whether contracted prior or subsequent to the adoption of this constitution, shall be included; provided further that any incorporated city may become indebted in any amount not exceeding four per centum of such assessed market value without regard to the existing indebtedness of such city for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purposes whatever. All bonds and obligations in excess of the amount of indebtedness permitted by this constitution, given by any city, county, township, ~~town~~, school district, or any other political subdivision shall be void.

SECTION 5. AMENDMENT. Section 16 of article X of the Constitution of North Dakota is amended and reenacted as follows:

SECTION 16. Any city, county, township, ~~town~~, school district, or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide for ~~the collection of an annual tax revenues~~ sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt be paid.

SECTION 6. REPEAL. Sections 5, 6, 7, 9, and 10 of article X of the Constitution of North Dakota are repealed.

SECTION 7. EFFECTIVE DATE. If approved by the voters, this measure becomes effective on January 1, 2012.

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

MONTH, DAY, YEAR	NAME OF QUALIFIED ELECTOR	RESIDENTIAL ADDRESS OR COMPLETE RURAL ROUTE OR GENERAL DELIVERY ADDRESS	CITY, STATE, ZIP CODE
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2.			
3.			
4.			

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MONTH, DAY, YEAR	NAME OF QUALIFIED ELECTOR	RESIDENTIAL ADDRESS OR COMPLETE RURAL ROUTE OR GENERAL DELIVERY ADDRESS	CITY, STATE, ZIP CODE
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STATE OF NORTH DAKOTA)
) ss.
COUNTY OF _____)
 (county where signed)

I, _____, being sworn, say that I am a qualified elector; that I reside at _____;
(circulator) (address); that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each person whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the person whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, 2010, at _____, North Dakota.
(city)

(NOTARY SEAL / STAMP)

(signature of notary)

Notary Public

My commission expires _____

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.nd.gov/sos



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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

April 8, 2010

Charlene Nelson
Chairman
Sponsoring Committee
15703 31st Street SE
Casselton ND 58012-9727

RE: Proposed constitutional initiative relating to elimination of property tax and source of replacement revenue

Dear Ms. Nelson,

When a petition is presented to the Secretary of State's office, the full text of the measure proposed in the petition is usually accepted as submitted by the Sponsoring Committee. That is because the content of the measure is the responsibility of the sponsoring committee. Neither the Attorney General nor I have the authority to change it.

Our concentration is on the format of the petition and with the drafting of the petition title. According to Section 16.1-01-09 of the North Dakota Century Code (N.D.C.C.), "Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval."

It was on that basis that I approved your petition for circulation on March 29, 2010. Now, it has been brought to our attention by the State of North Dakota Legislative Council staff that the submitted text on the petition provided by the Sponsoring Committee contains several drafting errors.

Under the heading of FULL TEXT OF THE MEASURE, it states that any new material is underscored. With that understanding, because several words in Section 1 of Section 1 of the measure are being added, as noted below, they should be underscored. They are not currently underscored in the text of the measure appearing on the petition.

Section 1. The legislative assembly shall be and all political subdivisions are prohibited from raising revenue to defray the expenses of the state or political subdivisions through the levying of a tax on the assessed value of real or personal property.

Additionally, in Section 4 of Section 2 of the measure, the subsection numbers 1, 2, and 3 on the left side should be underscored because they would be entire new subsections to the constitution. On the other hand, in Section 14 of Section 3 of the measure, the underscores should be removed from all of the subsection numbers on the left side because only portions of those subsections are being amended and not the entire individual subsections.

Please provide this office with a new proof copy of the petition having the corrections noted above and I will approve the new petition format for circulation. The petition title will remain the same.

If you have questions or need additional information, please contact either Lee Ann Oliver, Election Specialist, at (701) 328-4146, (800) 352-0867, ext. 8-4146, through e-mail at loliver@nd.gov or me.

Sincerely,

A handwritten signature in black ink, appearing to read "Alvin A. Jaeger".
Alvin A. Jaeger
Secretary of State