

Empower the Taxpayer

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November 2, 2011

Chairman Drovdal and Members of the Property Tax Measure Review Committee:

In June the North Dakota Legislative Council staff prepared for the Property Tax Measure Review Committee a Background Memorandum.

This is the third meeting of the Property Tax Measure Review Committee. The first was held on June 22, the second on August 15 and this on November 2.

The direct cost to the taxpayers of the first two meeting was \$12,150.41. The anticipated cost of this meeting will be approximately \$6,000. This does not include the time or expenses incurred by any agencies or departments in responding to the directives of this committee.

This Committee was charged with, among other things, the responsibility to:

1. (5) Receive testimony from the Attorney General's office regarding the provisions of the initiated measure.
2. (6) Receive testimony from agencies, institutions, and departments regarding the estimated fiscal impact of the initiated measure.
- (7) Determine the estimated fiscal impact of the initiated measure.
3. (8) Develop recommendation and any bill drafts necessary to implement the recommendations.

The minutes of the June 22 meeting stated the Committee identified 14 questions which, "Should be answered to clarify the intent of the initiated measure and to assist in the determination of the measures fiscal impact."

- Empower the Taxpayer responded to these questions in detail. We provided legal memorandum to the Committee Chairman addressing each question and requested these lego memos be distributed to members of the committee. Chairman Drovdal did so. To date we have seen no other response to the questions posed by the Committee. **We ask the committee if it is aware of or has requested responses to these questions from any other entity?**
- At the August 15 meeting a memorandum titled, "Property Tax Measure Questions" was distributed. This memorandum identified 30 questions regarding the Initiated Measure. Empower the Taxpayer provided detailed responses to each question. We sent the responses to Chairman Drovdal and requested he distribute them to the committee members. **We ask the committee if it is aware of or has requested responses to these questions from any other entity?**

Empower the Taxpayer would like to be on record regarding some concerns it has.

1. **NDCC 16.1-10 Corrupt Practices.** At the June 22 meeting Chairman Drovdal noted that the Committee's duties were to gather objective information and that NDCC 16.1-10, which was

amended during the 2009-2011 legislative session. The Committee is permitted to present only, ***"FACTUAL information regarding ballot question solely for the purpose of educating voters if the information does not advocate for or against or otherwise reflect a position on the adoption or rejection of the ballot question."*** While Chairman Drovdal has repeatedly emphasized this it appears others have chosen to not follow the law.

2. **Determining the fiscal impact of the Initiated Measure.** Empower the Taxpayer is concerned that the Committee is not seeking to determine the fiscal impacts of the Initiated Measure.
 - a. Ms. Keller noted the Legislative Management has not discussed nor authorized a formal econometric study on the fiscal impacts of Measure 2.
 - b. There has been no effort, to date, to identify the cost of implementation, assessment or management of property taxes.
 - c. Chairman Drovdal stated the "in house personnel develop fiscal forecasts and budgets", and they will be doing the fiscal impact analysis of Measure 2. No outside consultants will be hired to determine the fiscal impact of Measure 2.
 - d. The State Tax Department does not have econometric modeling capabilities. While Commissioner Fong notes his department has limited static modeling capabilities it does not have dynamic modeling capabilities and are "beyond the scope of our in-house models".

This being noted Empower the Taxpayer requests the Committee to either commission a dynamic fiscal impact study or adopt the one prepared by the Beacon Hill Institute. We have informed Chairman Drovdal that we would be happy to work with the Committee and Beacon Hill to expand any aspect of the modeling the Committee may wish to have expanded.

3. Item #8 on the Committee Study Plan states: **"Develop recommendations and any bill drafts necessary to implement the recommendations."** At the October 17, North Dakota Association of Counties Conference Jane Amundson of Steel County asked a member of this Committee whether there was "any plan" how this would work. The answer was, *"I don't believe the committee's intent is to go down that road, unless the bill passes."*

The Measure directs the Legislature to "develop a formula to fully and properly fund all legally imposed obligations." This same member of your committee stated he had THREE objections to Measure 2:

- (1) Measure 2 will create a tax shift;
- (2) Measure 2 will cause litigation and
- (3) "The worst of the three is uncertain tax policy".

It should surprise no one that there is uncertainty. The uncertainty is created only if this committee does not do its job. The only reason there would be any uncertainty is if the legislature fails to devise that plan as the Measure directs. On October 27, 2011 the Chairman of this committee stated, *"We were not assigned the responsibility to present a bill draft to implement the needed changes."*

The only uncertainty as to how this Measure will operate; what the fiscal impacts of the measure will be; how funding will be allocated will come about if the committee is unwilling to:

- Have either a dynamic fiscal impact analysis performed or adopt the one that Empower the Taxpayer has had performed; and
- Develop recommendations and bill drafts necessary to implement the recommendations.

It is our hope this Committee will use our precious tax dollars to perform a dynamic fiscal impact study that will fairly and objectively show the true financial impacts of eliminating property taxes. And it will develop draft bill language that will show how the constitutional language of Measure 2 will be implemented by the legislature.

Respectfully,

Charlene Nelson, Chairman
Empower the Taxpayer

LeRoy Neubauer, Co-Chairman
Empower the Taxpayer