

Estimated Impact of Initiated Measure #2

By

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Chairman Drovdal and members of the Legislative Management's interim Property Tax Measure Review Committee for the record my name is Doug Johnson and I am the executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am here to provide you background information on the possible estimated impact of initiated measure No. 2 on North Dakota's K-12 public schools.

Initiated measure No. 2, which requires taxes upon real property which were used before 2012 to fund the operations school district as well as other municipalities political subdivisions which had authority to levy property taxes to be replaced with revenues from the proceeds from a variety of state s taxes, and other state resources, will have significant impact on the funding of North Dakota's K-12 public schools. First, it is my understanding from the way measure No.2 was written that the funding of revenues lost by school districts would be based on taxes levied prior to 2012. This means the measure would be take effect "retroactively" and would place school districts on a funding level based on 2010 tax levies and property values instead of 2011 tax levies and property values. Second, in a legal opinion issued on November 1st, 2012, Attorney General Wayne Stenehjem stopped short of saying the school districts would have to refund money received based on 2011 property valuation and taxes but he did say that it would create "difficult administrative problems."

The immediate consequences of this "retroactive reset" created by the passage of initiated measure No. 2 to school districts would be enormous. School districts have already built their 2011-2012 budgets based on income provided from the state foundation aid and anticipated

revenues based on 2011 property tax revenues – i.e. property values and mill levies set in 2011.

The passage of initiated measure No. 2 could and more than likely would create an immediate shortfall for the 2011-2012 year budget for most if not all school districts in the state. In addition, school districts will begin receiving property tax payments from their county auditors in spring of 2012 based on the 2011 property valuations and mill levies.

Several questions arise from this interpretation. The question still remains, even with the AG's opinion, whether or not school districts would be required to pay these funds back and if they were required to do so would the state be obligated to cover those payments with state funds? Further, would those payments be based on the 2010 or 2011 property valuations and mill levies? These are many questions that are not yet answered and of which our members have immediate concern as this issue would truly create "difficult administrative problems." A strong argument could be made that they were obligated and levied in 2011 and simply collected in 2012. Ultimately, question becomes for which base year, 2010 or 2011, were the property taxes obligated to school districts?

A second consequence of initiated measure No. 2 is in Section 4, subsection 2 of Article X where the amendment requires the state to direct as much tax revenues from a variety of sources "as necessary to fund the share of elementary and secondary education not funded through state revenue sources before 2012." This again raises the question as to which dollar amount would be the state's obligation to fund after January 1, 2012, the funds derived from the 2010 valuations or those from the 2011 valuations? Obviously, if the former is the "reset year" it would mean that school districts budgets already adopted for 2011-2012 would be funded at the 2010 for property valuations and levies for this school year instead 2011 and, as a consequence, would more likely than not be considerably underfunded.

In addition, this section of the measure is silent on future funding by the state for revenues lost by the elimination of property taxes. Does the state just continue to fund each school district's lost share of revenue every year at the same level as determined by the reset date? Or, is the state allowed to set a new state formula for funding of North Dakota's school districts controllable share, where "the state cannot condition the expenditure of this portion of . . . 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" to work in tandem with states equity funding formula?

A third consequence of the passage of initiated measure No. 2 is related to General Obligation (GO) bonds schools used for remodeling or building new schools. What happens to school districts that already have GO bonds in currently in place? Are they allowed to continue to pay off future obligations for GO bonds or does Article X Section 16 of the North Dakota Constitution which "requires an irrepealable tax levy until the bonds are paid" override measure No. 2? If not, will the state be obligated to fund the remaining GO bonds incurred by school districts until the bonds are paid off? If this is the case what needs to be done to go from a "full and true value" property value base to a "market" value base? How will school districts fund remodeling and new building needs in the future without the ability to pass GO bonds for such needs? Will it become the state's responsibility to fund all building needs for school districts and if so how will that be done? Will school districts need to appear before the legislature to request funding for these future needs? These are tough questions which will need to be discussed more thoroughly.

Finally, there will be considerable impact on the equity funding formula that is currently in place to fund the state's current obligation to fund its share elementary and secondary

education costs. Included with this testimony is a copy of the 2011-2012 North Dakota Department of Public Instructions "*Worksheet for Determining School District Revenue*" for you to follow for this part of my testimony.

It is assumed with this testimony that with the passage of initiated measure No. 2 school districts will receive, in addition to the state foundation aid payment for 2011-2012, at a minimum, the dollar amount raised from all property tax levies that that receive for 2010 and at a maximum for 2011 for 2012. The question then becomes of what changes would need to be made to the current state aid funding formula and the "look" of this worksheet.

If you look at *Section A State Sources*: on page 1 of the *Worksheet for Determining School District Revenue* it appears that methods for determining *Student Membership* (lines 1-7) *Average Daily Membership (ADM)*, *Other Program Membership* (lines 8 -28) would not be impacted by the passage of initiated measure No. 2. However, the *Equalization Adjustments* (lines 29 -36) would be significantly impacted. This is because the calculations for determining high valuation offsets, equity payments, and transition minimums and maximums based on property valuations for each school district. The passage of initiated measure No. 2 would remove the language of "full and true" value with "market" value all of the calculations done in determining *Imputed Valuation Per Pupil* (Section B, page 2 lines 36-52), *High Valuation Offset* (Section C, page 2 lines 53-59), and *Equity Payment* (Section D, page 2 lines 60-70) would at a minimum require the current funding formula to be "recalibrated" based on market value and perhaps may have to be totally rethought. My immediate concern would be the speed with which county auditors would be able to provide the market value of all property to do this reset. Would it be available within 30 days after the passage of initiated measure No. 2, and that is assuming that the formula could be "recalibrated" to accommodate this change?

A second, a perhaps more pressing concern would be if this "recalibration" would be effective on state payments for the 2011-2012 school year. Since measure No. 2 is retroactive to January 1, 2012 this could be a very strong possibility. If this is true it would mean a change in the distribution of state foundation aid payments for the 2012-2012? Would school districts which have already adopted budgets based on income from both the state foundation aid payment and revenues generated by property tax levies based on 2011 valuations have to rebuild their budgets? The outcome of this scenario coming to fruition would be disastrous North Dakota's school districts.

Finally, there are a host of unanswered questions that would result from the passage of initiated measure No. 2. What obligation will the state have to address the continued funding of a school districts lost revenue from local property taxes after 2012? Will there be a new funding formula developed to address equity that is currently addressed in the states foundation aid funding formula? Will the new state funding formula address the wide disparity in property tax revenues generated by the "reset" date of January 1, 2012? These questions and I am sure more that will develop over the next several months must be addressed and possible solutions developed that could be put in place should this measure pass in June of 2012. This will be the challenge for this interim committee in the months ahead.

Chairman Drovdal and members of the Legislative Management's interim Property Tax Measured Review Committee this concludes my testimony. I will be glad to answer any questions that you may have at this time.



Worksheet for Estimating School District Revenue

North Dakota Department of Public Instruction

Office of School Finance and Organization

9432 (03-2010)

District Name	County District Number	School Year
#N/A		2011-12

A STATE SOURCES:

Include regular school year average daily membership (ADM) for 2009-10. ADM for students attending school in Montana and Minnesota (NDCC 15.1-29.01), South Dakota students attending school in North Dakota (NDCC 15.1-29.02.1) under cross border attendance agreements, and students placed outside the district for purposes other than education are also included.

Student Membership

- 1 Pk Special Education
- 2 Kindergarten
- 3 Grade 1-6
- 4 Grade 7-8
- 5 Grade 9-12
- 6 Alternative High School
- 7 Total Average Daily Membership (ADM)

ADM	Weighting Factor	Weighted ADM
	1.000	#N/A
	1.000	#N/A
	1.000	#N/A
	1.000	#N/A
	1.000	#N/A
	1.000	#N/A
		#N/A

Other Program Membership

- 8 Alt High School (from line 6)
- 9 Special Ed ADM (from line 7)
- 10 PK Special Ed ADM (from line 1)
- 11 Technology (from line 7)
- 12 Regional Education Associations (from line 7)
- 13 ELL Level I
- 14 ELL Level II
- 15 ELL Level III
- 16 At Risk (3-8 FRPL percentage times line 7)
- 17 Home-Education (district supervised)
- 18 Cross Border Attendance (MN, MT)
- Summer Programs
- 19 - Summer School
- 20 - Migrant Summer
- 21 - Special Ed ESY
- Isolated Schools
- 22 - Isolated Factor
- 23 - ADM Adjustment

#N/A	0.250	#N/A
#N/A	0.073	#N/A
#N/A	0.170	#N/A
#N/A	0.006	#N/A
#N/A	0.004	#N/A
	0.300	#N/A
	0.200	#N/A
	0.070	#N/A
	0.025	#N/A
	0.500	#N/A
	0.200	#N/A
	0.600	#N/A
	1.000	#N/A
	1.000	#N/A
#N/A	0.100	#N/A
#N/A	1.000	#N/A

- 24 Total Weighted Average Daily Membership (add lines 7 through)
- 25 School Size Adjustment Factor
- 26 Total Weighted Student Units
- 27 Per Student Payment Rate
- 28 Total Formula Payment

#N/A
#N/A
#N/A
\$3,910
#N/A

Equalization Adjustments

- 29 High Valuation Offset (from line 59)
- 30 Subtotal (add lines 28 and 29)
- 31 Transition Maximum (maximum funding from line 95)
- 32 Equity Payment (from line 70)
- 33 Subtotal (add lines 31 and 32)
- 34 Transition Minimum (minimum funding from line 92)
- 35 State Formula Aid Payment (add lines 33 and 34)

	#N/A
	#N/A
#N/A	#N/A
	#N/A
	#N/A
#N/A	#N/A
	#N/A



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North Dakota Department of Public Instruction

Office of School Finance and Organization

9432 (03-2010)

STATE SCHOOL AID SUMMARY

State Aid Formula Payment (from line 35)
Transportation (from line 86)
State Child Placement
Special Education Contracts - Agency
Special Education Contracts - School Placed
Special Education Contracts - Boarding
Special Education - Gifted and Talented
Mill Levy Reduction Grants

Total State Aid

Excess Fund Balance Offset (line 75)

Gross	EFB Offset	Net
#N/A	#N/A	#N/A
-	#N/A	#N/A
	#N/A	#N/A
	#N/A	#N/A
	#N/A	#N/A
	#N/A	#N/A
	#N/A	#N/A
#N/A	#N/A	#N/A
#N/A	#N/A	#N/A

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9432 (03-2010)

EQUALIZATION ADJUSTMENTS WORKSHEET

State Averages

Percentage

State Average Taxable Valuation Per Student	Estimated	26,520.91
Minimum Valuation Per Student	90.0%	23,868.82
Maximum Valuation per Student	150%	39,781.37

B IMPUTED VALUATION PER PUPIL

- 36 1300 Tuition
- 37 2999 County
- 38 US Flood
- 39 REC Gross Receipts
- 40 Mobile Home
- 41 Telecommunications
- 42 Total Additional Revenue
- 43 2008 General Fund, H.S. Tuition and H.S Transportation Levies
- 44 Imputed Additional Valuation
- 45 Taxable Valuation
- 46 Total Imputed Taxable Valuation
- 47 Average Daily Membership (from line 7)
- 48 ADM Adjustment
- 49 Total Adjusted Average Daily Membership
- 50 District Imputed Taxable Valuation per Student
- 51 Amount Over Maximum Valuation per Student (complete section C)
- 52 Amount Below Minimum Valuation per Student (complete section D)

Total Revenue

Percent Incl.

	70%	-
	70%	-
	70%	-
	70%	-
	100%	-
	100%	-
		-
		#N/A
		#N/A
		#N/A
		#N/A
		#N/A
		#N/A
		#N/A
		#N/A
		#N/A

C HIGH VALUATION OFFSET

- 53 Amount Over Maximum Valuation per Student (from line 51)
- 54 Total Adjusted Average Daily Membership (from line 49)
- 55 Total Valuation Over Maximum Valuation
- 56 Adjustment Mill Rate
- 57 Total Valuation Subject to Offset
- 58 Reduction Factor
- 59 High Valuation Offset

#N/A
#N/A
#N/A
185.00
#N/A
75%
#N/A

D EQUITY PAYMENT

- 60 Amount Below Minimum Valuation per Student (from line 52)
- 61 Total Adjusted Average Daily Membership (from line 49)
- 62 Missing Valuation
- 63 2008 General Fund, H.S. Tuition and H.S Transportation Levies, (limited to 185 mills)
- 64 Maximum Support Payment
- 65 Minimum Levy Deduction (mills levied below 185 x taxable valuation)
- 66 Adjusted Support Payment
- 67 Local Levy Effort (mills levied x taxable valuation)
- 68 Maximum Support Payment (lesser of line 66 and line 67)
- 69 Low Valuation Adjustment
- 70 Equity Payment

#N/A
#N/A
#N/A
#N/A
#N/A
#N/A
#N/A
#N/A
#N/A
#N/A
#N/A

E EXCESS FUND BALANCE OFFSET

- 71 General Fund Ending Balance
- 72 General Fund Expenditures
- 73 45% of General Fund Expenditures + \$20,000
- 74 Excess Fund Balance Offset (line 71 minus line 73, if less than zero enter zero)

20,000.00
-

Worksheet for Estimating School District Revenue

North Dakota Department of Public Instruction

Office of School Finance and Organization

9432 (03-2010)

G TRANSPORTATION WORKSHEET

Transportation Statistics

Transportation Statistics		Rate	Miles	Rides	Total
75	Small Bus Miles	0.460		xxxxxx	-
76	Large Bus Miles	1.030		xxxxxx	-
77	Rural Rides	0.260	xxxxxx		-
78	Small In-City Miles	0.460		xxxxxx	-
79	Large In-City Miles	1.030		xxxxxx	-
80	In-City Rides	0.260	xxxxxx		-
81	Family - To School	0.230		xxxxxx	-
82	Family - To Bus	0.230		xxxxxx	-
83	Not Reimbursable	-			
84 Total Transportation Reimbursement					-
85 Reimbursement Cap --- 90% of transportation expenditures					
86 Block Grant Total (lesser of 90% cap or total)					-

H BASELINE FUNDING - MINIMUM AND MAXIMUM PAYMENTS

State aid received by the school district for the 2006-2007 school year less transportation aid, special education excess cost reimbursements, special education contracts, prior year funding adjustments, and per student payments for participation in education associations governed by joint powers agreements.

87 Baseline Funding (2006-2007 State Aid Payments)
88 Weighted Student Units 2007-2008
89 Baseline funding per student

#N/A
#N/A
#N/A

90 Minimum increase
91 Minimum funding per student
92 Minimum payment

	1.1250
#N/A	
#N/A	

93 Maximum increase
94 Maximum funding per student
95 Maximum payment

	1.4200
#N/A	
#N/A	

1 MILL LEVY REDUCTION GRANT

96 2008 General Fund, H.S. Tuition and H.S Transportation Levies
97 Minimum Mill Levy
98 Test 1 - Mills levied over 100 mills (if less than 0 then enter 0)
99 Test 2 - Maximum mill levy relief (75 mills)
100 Test 3 - Mill levy relief per weighted student unit
101 Mill Levy Relief (lesser of lines 100, 101, 102)
102 Adjusted Mill Levy
103 Taxable Valuation
104 Property Tax Relief Unadjusted (line 103 * line 101+1000)
105 Adjustment for Alternatively Assessed Property
106 Property Tax Relief Adjusted (add lines 104 and 105)
107 Minimum Grant (prior year mill levy reduction grant)
108 Maximum Grant (line 107 times 107.77%)
109 Mill Levy Reduction Grant (line 106 but not less than line 107 and

[illegible]