

Report of the
NORTH DAKOTA LEGISLATIVE COUNCIL

Submitted to the
North Dakota Secretary of State
Under North Dakota Century Code Section 16.1-01-17
Thursday, April 4, 2024

BACKGROUND

In 2004, the electorate of this state approved a constitutional amendment to Section 2 of Article III of the Constitution of North Dakota which authorized the Legislative Assembly to 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.

In 2005, the Legislative Assembly enacted North Dakota Century Code Section 16.1-01-17, which requires the Legislative Management to hold hearings, receive public testimony, and gather information from agencies, institutions, or departments on the estimated fiscal impact of an initiated measure. At least 30 days before the public vote on the measure, the Legislative Council is to submit a statement of the estimated fiscal impact of the measure to the Secretary of State. Within 30 days of the close of the 1st complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the Legislative Council are to submit a report to the Legislative Council on the actual fiscal impact for the 1st complete fiscal year resulting from the provisions of the initiated measure and a comparison to the estimates provided to the Legislative Council, and the Legislative Council is to issue a report of the actual fiscal impact of the initiated measure.

One initiated constitutional measure relating to congressional candidate age limits qualified for the ballot for the primary election on Tuesday, June 11, 2024.

The Legislative Council followed the procedure required by statute, which is similar to the procedure for obtaining fiscal impact information which the Legislative Assembly follows during legislative sessions. The state agency determined to have either the best information on the impact of a measure or the primary responsibility for compiling and maintaining the information needed was asked to prepare a fiscal note and present its findings at a meeting held by the Legislative Management on April 3, 2024.

**INITIATED CONSTITUTIONAL MEASURE NO. 1 -
CONGRESSIONAL CANDIDATE AGE LIMITS**

The initiated constitutional measure would create a new article to the Constitution of North Dakota relating to congressional candidate age limits. The measure would prohibit an individual from appearing on a ballot or being nominated, appointed, or elected to serve a full or partial term in the Congressional Delegation of this state if that individual will be 81 years of age on or before December 31 of the year immediately preceding the end of a term for the office of United States Senator or Representative in Congress. The measure provides if the congressional candidate age restriction is declared unconstitutional or preempted by federal law, a ballot advisory must appear next to the candidate's name on a ballot for the office of United States Senator or Representative in Congress. The measure would require the ballot advisory to inform the voter of the candidate's age on December 31 of the year immediately preceding the end of the term.

The measure also would grant standing to any elector of this state seeking to enforce the provisions of the article; specifically, whether the measure violates Article 1 of the United States Constitution. As a means to expedite a potential constitutional challenge to the measure, the measure permits an individual who exceeds the age limit in the measure to appear on the 2026 primary election ballot or use an alternate statutory nomination method for the office of United States Senator or Representative in Congress. If an elector files an action to enforce any provision of the article, the measure would require any district court having jurisdiction to issue a final judgment within 60 days of the filing date listed on the district court's docket. Any party appealing the district court's decision would be required to file a notice of appeal within 10 days of the final entry of judgment. The North Dakota Supreme Court would be required to hear all appeals and issue a final ruling within 60 days of the filing date of the notice of appeal. The Attorney General would be required to zealously defend the article because the measure declares congressional candidate age limits are a fundamental state interest.

The Secretary of State and the Attorney General's office provided information on the estimated fiscal impact of this measure.

Statement of Estimated Fiscal Impact of the Measure

The fiscal note prepared by the Secretary of State estimates no fiscal impact to the Secretary of State. However, a representative of the Attorney General's office testified that approval of the measure may result in the expenditure of an estimated \$1 million in litigation costs related to the defense of the constitutionality of the measure.