

INITIATED MEASURES DISAPPROVED

CHAPTER 490

CLEAN WATER, WILDLIFE, AND PARKS TRUST AND FUND

This initiated constitutional measure would add a new section to Article X of the North Dakota Constitution creating the clean water, wildlife, and parks trust and the clean water, wildlife, and parks fund to be financed by five percent of the revenues from the state's share of oil extraction taxes. Ten percent of that amount of annual revenues would be deposited in the trust with the principal invested by the state investment board; the earnings from the trust would be transferred to the fund to be spent on programs after January 1, 2019. Ninety percent of the annual revenues would be deposited into the fund to be used to make grants to public and private groups to aid water quality, natural flood control, fish and wildlife habitat, parks and outdoor recreation areas, access for hunting and fishing, the acquisition of land for parks, and outdoor education for children. The fund would be governed by a clean water, wildlife, and parks commission comprised of the governor, attorney general, and agriculture commissioner. A thirteen-member citizen accountability board would be appointed for three-year terms to review grant applications and make recommendations to the Commission. Every twenty-five years, the people would vote on the question of whether to continue the financing from the oil extraction taxes.

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

SECTION 1. AMENDMENT. A new section to article X of the Constitution of North Dakota is created and enacted as follows:

1. The people of North Dakota create the clean water, wildlife, and parks trust to protect our clean water, wildlife and parks for the benefit of people as provided herein.
2. There is created a clean water, wildlife, and parks fund that shall be used for grants to state agencies, tribal governments, local governments, political subdivisions, and nonprofit organizations for the following purposes:
 - a. Protect, improve, maintain, or restore water quality through the restoration and protection of rivers, streams, lakes or other surface waters, groundwater, wetlands, grasslands, prairies, or forests;
 - b. Improve natural flood control through the restoration or protection of natural areas along rivers, streams, lakes or other surface waters, groundwater, wetlands, grasslands, prairies, and forests;
 - c. Protect, restore, or create wildlife and fish habitat through voluntary programs on private lands, including working farms and ranches, and public lands through grassland, prairie, wetland, stream, lake, and forest restoration, creation, and protection;
 - d. Conserve or acquire natural areas, parks, and other recreation areas or provide access for hunting and fishing; or

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- e. Create more opportunities and places for children to learn about and enjoy nature and the outdoors.
3. There is created a clean water, wildlife and parks commission that shall be comprised of the governor, attorney general and agriculture commissioner. The commission shall govern the fund in accord with this section. Any money deposited in the clean water, wildlife, and parks fund is hereby appropriated to the commission on a continuing basis for expenditure upon those programs selected by the commission as provided in this section. The commission shall keep accurate records of all financial transactions performed under this section.
4. The commission may employ staff and enter into public and private contracts as may be necessary to operate the fund. The salaries of employees and other expenditures for the operation of the fund must be paid out of the fund. No more than three percent of the funds available in a given year may be paid out of the fund to operate the fund.
5. The commission must allocate no less than seventy-five percent nor more than ninety percent of the revenue deposited in the fund on an annual basis. Ten percent of earnings of the fund shall be reserved and transferred on an annual basis to the trust established in this section.
6. The commission may not use the fund, in any manner, to finance:
- a. Litigation;
 - b. Lobbying activities;
 - c. Activities that would unduly interfere, disrupt, or prevent the development of mineral rights;
 - d. Projects outside this state or projects that are beyond the scope of defined activities that fulfill the purposes of this section;
 - e. More than fifty percent of grant awards per biennium for any one stated purpose;
 - f. The acquisition of land through condemnation or the use of eminent domain; or
 - g. Compliance with legal mitigation requirements of any local, state, or federal permit or grant.
7. The principal and earnings of the trust may not be expended until after January 1, 2019, and an expenditure of principal after that date requires a vote of at least two-thirds of the members elected to each house of the legislative assembly. The state investment board shall invest the principal of the trust. The state treasurer shall transfer earnings of the trust accruing after January 1, 2019, to the fund established in this section at the end of each fiscal year.
8. Each regular legislative session, the commission must file a report to the citizens of the state at a public hearing before each house of the legislative assembly. The report must include a state auditor's report on the clean water,

- wildlife, and parks trust and clean water, wildlife, and parks fund for the previous two fiscal years.
9. There is created a citizen accountability board consisting of thirteen members. The board shall provide grant recommendations to the commission in accord with the purposes stated in this section. The board members must be qualified electors of the state and shall be appointed as follows:
 - a. Four citizen members appointed by the governor, upon the recommendation of the director of the game and fish department;
 - b. Two citizen members appointed by the governor, upon the recommendation of the director of the parks and recreation department;
 - c. One citizen member appointed by the governor, upon the recommendation of the indian affairs commission;
 - d. Two members of the state senate, appointed by the president pro tempore, with equal representation from the two largest political parties in the senate;
 - e. Two members of the house of representatives, appointed by the speaker, with equal representation from the two largest political parties in the house;
 - f. One energy industry representative to be appointed by the public service commission; and
 - g. One farmer or rancher to be appointed by the agriculture commissioner.
 10. The terms of members of the citizen accountability board will be three years, except the terms of the initial board will vary and be drawn by lot to ensure that no more than five members be subsequently appointed each year. Board members may not serve more than three terms. The board shall select a chairman from among the members. Nine voting members is a quorum at any meeting.
 11. In making appointments to the citizen accountability board, consideration shall be given to the practical experience and demonstrated knowledge in one or more of the following areas:
 - a. Science, policy, or practice of natural resources, conservation, or tribal lands;
 - b. Restoring, protecting, and enhancing groundwater or wetlands;
 - c. Conservation practices, including professional or volunteer work restoring and protecting working agricultural lands, wetlands, prairies, forests, and habitat for fish, game, and wildlife; or
 - d. The maintenance and management of public parks and recreation areas.
 12. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.

13. The initial members of the citizen accountability board shall be appointed within ninety days after the effective date of this section. Grant applications shall be considered within three hundred sixty-five days of the effective date of this section and grant applications shall be considered at least annually thereafter.
14. The state treasurer shall reserve five percent of the state's share of total revenue derived from oil extraction taxes for the purposes described in this section. Ten percent of the funds so reserved shall be transferred by the state treasurer into the clean water, wildlife, and parks trust within thirty days after the end of each calendar quarter. Ninety percent of the funds so reserved shall be transferred by the state treasurer into the clean water, wildlife, and parks fund within thirty days after the end of each calendar quarter.
15. Upon voter approval of this measure, the provisions of subsections 13 through 15 herein shall be authorized and continue until the next general election held after twenty-five years from the effective date of this section. In that general election, the secretary of state shall place a question, for approval or rejection by the people, of whether the funds reserved as provided in subsection 14 shall continue. The question presented shall include a report from state investment board indicating the then-existing balance of the clean water, wildlife, and parks trust and the annual estimated earnings to be provided to the clean water, wildlife, and parks fund. At the next statewide general election held twenty-five years after a reauthorization under this section, the issue of whether the reservation of funds described in subsection 14 herein shall be resubmitted to the voters for approval or rejection, accompanied by the report as directed herein. If a majority of the voters fail to approve the continued reservation of funds, subsections 13, 14, and 15 herein shall terminate on the first day of the calendar quarter following the date it is rejected by the voters.

SECTION 2. EFFECTIVE DATE. If approved by the voters, this measure becomes effective for oil produced on or after January 1, 2015, or the first day of the first calendar quarter beginning after the date it is approved by the voters, whichever occurs later.

Disapproved November 4, 2014

51,775 to 199,305

NOTE: This was measure No. 5 on the general election ballot.

CHAPTER 491

PARENTAL RIGHTS AND RESPONSIBILITIES

This initiated measure would amend section 14-09-06.2 of the North Dakota Century Code to create a presumption that each parent is a fit parent and entitled to be awarded equal parental rights and responsibilities by a court unless there is clear and convincing evidence to the contrary; the measure would also provide a definition of equal parenting time.

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

SECTION 1. AMENDMENT. Section 14-09-06.2 of the North Dakota Century Code is amended and reenacted as follows:

1. It is the policy of the state of North Dakota that no requesting biological or adoptive parent shall be denied equal parental rights and responsibilities, equal parenting time, equal primary residential responsibility, and equal decision making responsibility of a child in a custody case. It is the policy of the state of North Dakota to presume that parents are fit and an award to both parents of equal parental rights and responsibilities, equal parenting time, equal primary residential responsibility, and equal decision making responsibility of a child is in the best interest of the child. The presumption of fitness as a parent shall only be rebutted upon a showing by clear and convincing evidence. The court shall support departures from equal parenting time with written findings of fact and conclusions of law. Fit parents may petition the court for a hearing which the court shall grant to support this statute. The provisions of this section control other provisions of state law that conflict with or are contrary to its provisions. For the purpose of parental rights and responsibilities, the best interests and welfare of the child is determined by the court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:
 - a. The love, affection, and other emotional ties existing between the parents and child and the ability of each parent to provide the child with nurture, love, affection, and guidance.
 - b. The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.
 - c. The child's developmental needs and the ability of each parent to meet those needs, both in the present and in the future.
 - d. The sufficiency and stability of each parent's home environment, the impact of extended family, the length of time the child has lived in each parent's home, and the desirability of maintaining continuity in the child's home and community.
 - e. The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child.
 - f. The moral fitness of the parents, as that fitness impacts the child.

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- g. The mental and physical health of the parents, as that health impacts the child.
 - h. The home, school, and community records of the child and the potential effect of any change.
 - i. If the court finds by clear and convincing evidence that a child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature child. The court also shall give due consideration to other factors that may have affected the child's preference, including whether the child's preference was based on undesirable or improper influences.
 - j. Evidence of domestic violence. In determining parental rights and responsibilities, the court shall consider evidence of domestic violence. If the court finds credible evidence that domestic violence has occurred, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded residential responsibility for the child. This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that parent have residential responsibility. The court shall cite specific findings of fact to show that the residential responsibility best protects the child and the parent or other family or household member who is the victim of domestic violence. If necessary to protect the welfare of the child, residential responsibility for a child may be awarded to a suitable third person, provided that the person would not allow access to a violent parent except as ordered by the court. If the court awards residential responsibility to a third person, the court shall give priority to the child's nearest suitable adult relative. The fact that the abused parent suffers from the effects of the abuse may not be grounds for denying that parent residential responsibility. As used in this subdivision, "domestic violence" means domestic violence as defined in section 14-07.1-01. A court may consider, but is not bound by, a finding of domestic violence in another proceeding under chapter 14-07.1.
 - k. The interaction and interrelationship, or the potential for interaction and interrelationship, of the child with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child's best interests. The court shall consider that person's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault, on other persons.
 - l. The making of false allegations not made in good faith, by one parent against the other, of harm to a child as defined in section 50-25.1-02.
 - m. Any other factors considered by the court to be relevant to a particular parental rights and responsibilities dispute.
 2. ~~In a proceeding for parental rights and responsibilities of a child of a servicemember, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interests of the~~

~~child but may consider any significant impact on the best interests of the child of the parent's past or possible future deployment.~~

- ~~3-~~ In a proceeding for parental rights and responsibilities of a child of a servicemember, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interests of the child but may consider any significant impact on the best interests of the child of the parent's past or possible future deployment.
3. "Equal parenting time" is defined as a rebuttable presumption of approximate and reasonable equal time-sharing of a child with both of the child's parents or a mutually agreed and signed parenting plan between the parents.

Disapproved November 4, 2014

92,807 to 152,004

NOTE: This was measure No. 6 on the general election ballot.

CHAPTER 492

OPERATION OF A PHARMACY

This initiated measure would amend section 43-15-35 of the North Dakota Century Code. It would repeal the requirement that an applicant for a permit to operate a pharmacy must be a licensed pharmacist, a business entity controlled by licensed pharmacists, a hospital pharmacy, or a postgraduate medical residency program.

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

SECTION 1. AMENDMENT. Section 43-15-35 of the North Dakota Century Code is amended and reenacted as follows:

43-15-35. Requirements for permit to operate pharmacy—Exceptions.

1. The board shall issue a permit to operate a pharmacy, or a renewal permit, upon satisfactory proof of all of the following:
 - ~~a-1.~~ The pharmacy will be conducted in full compliance with existing laws and with the rules and regulations established by the board.
 - ~~b-2.~~ The equipment and facilities of the pharmacy are such that prescriptions can be filled accurately and properly, and United States pharmacopeia and national formulary preparations properly compounded and so that it may be operated and maintained in a manner that will not endanger public health and safety.
 - ~~c-3.~~ The pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary, and orderly manner.
 - ~~d-4.~~ The management of the pharmacy is under the personal charge of a pharmacist duly licensed under the laws of this state.
 - ~~e-5.~~ The applicant for such permit is qualified to conduct the pharmacy, ~~and is a licensed pharmacist in good standing or is a partnership, each active member of which is a licensed pharmacist in good standing; a corporation or an association, the majority stock in which is owned by licensed pharmacists in good standing; or a limited liability company, the majority membership interests in which is owned by licensed pharmacists in good standing, actively and regularly employed in and responsible for the management, supervision, and operation of such pharmacy.~~
 - ~~f-6.~~ Suitable reference sources either in book or electronic data form, are available in the pharmacy or online, which might include the United States pharmacopeia and national formulary, the United States pharmacopeia dispensing information, facts and comparisons, micro medex, the American society of health-system pharmacists formulary, or other suitable references pertinent to the practice carried on in the licensed pharmacy.
2. ~~The provisions of subdivision e of subsection 1 do not apply to:~~
 - ~~a. The holder of a permit on July 1, 1963, if otherwise qualified to conduct the pharmacy, provided that any such permitholder that discontinues~~

~~operations under such permit or fails to renew such permit upon expiration is not exempt from the provisions of subdivision e of subsection 1 as to the discontinued or lapsed permit.~~

- ~~b. A hospital pharmacy furnishing service only to patients in that hospital.~~
- ~~e. The applicant for a permit to operate a pharmacy which is a hospital, if the pharmacy for which the hospital seeks a permit to operate is a retail pharmacy that is the sole provider of pharmacy services in the community and is a retail pharmacy that was in existence before the hospital took over operations. A hospital operating a pharmacy under this subdivision may operate the pharmacy at any location in the community.~~
- ~~d. The applicant for a permit to operate a pharmacy which is the owner of a postgraduate medical residency training program if the pharmacy is collocated with and is run in direct conjunction with the postgraduate medical residency training program. For purposes of this subdivision, the postgraduate medical residency training program must be accredited by the accreditation council on graduate medical education or other national accrediting organization.~~

Disapproved November 4, 2014

102,731 to 147,644

NOTE: This was measure No. 7 on the general election ballot.

CHAPTER 493

SCHOOL CLASSES BEGINNING AFTER LABOR DAY

This initiated measure would amend section 15.1-06-03 of the North Dakota Century Code to require school classes to begin after labor day.

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

SECTION 1. AMENDMENT. Section 15.1-06-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-03. School year - Definition.

The school year begins on July first and ends on June thirtieth the following year.
School classes shall begin after labor day.

Disapproved November 4, 2014

109,489 to 136,963

NOTE: This was measure No. 8 on the general election ballot.