

**North Dakota State Board of Higher Education  
Governance Committee**  
Meeting Minutes, September 20, 2018

The State Board of Higher Education Governance Committee met on September 20<sup>th</sup> at 3:30 p.m. CT., via conference call originating from the Capitol, 10<sup>th</sup> floor, NDUS Conference room, 600 East Boulevard Ave., Bismarck, ND, 58505.

Chair Neset called the meeting to order at 3:30 p.m. CT.

Members Present:

Ms. Kathleen Neset, Chair  
Mr. Don Morton  
Mr. Dan Traynor  
Mr. Andy Wakeford

Others Present:

Chancellor Hagerott  
President Bresciani, NDSU  
President Shirley, MiSU  
Dr. Tom DiLorenzo, UND  
Mr. Lloyd Halvorson, LRSC  
Ms. Laura Schrott, NDUS  
Ms. Karol Riedman, NDUS  
Ms. Tammy Dolan, NDUS  
Ms. Terry Meyer, NDUS  
Ms. Katie Fitzsimmons, NDUS  
Ms. Kristie Hetzler, NDUS  
Mr. Darin King, CTS  
Mr. Chris Pieske, AG (arrived @ 3:40)

1. **Agenda**

Morton moved, Traynor seconded, to approve the agenda.

Morton, Traynor, and Neset voted yes.

2. **Meeting Minutes**

Ness moved, Hacker seconded, to approve the May 17, 2018, meeting minutes.

Traynor, Morton, and Neset voted yes.

**3. Board Self-Evaluation Prioritization**

Ms. Laura Schrott reviewed the items members identified in their [board self-evaluation priority lists](#). Committee members agreed the following were items they would begin to address:

- Policies
- Succession planning
- Committee structure/meeting efficiencies
- Communication with Chancellor

**4. 2019 SBHE Meeting Schedule**

Member Morton reviewed the proposed [2019 draft SBHE meeting schedule](#). The members discussed and agreed on quarterly face-to-face meetings; specific months will be determined at the full Board meeting. The committee also agreed to hold those meetings in Bismarck. They noted the importance of the upcoming legislative session and the need to be flexible with their meeting schedule. The committee also discussed having more consent agenda items and what are the best practices to address them. The committee members recognized the importance of the Board to focus on policy and strategic planning to include the institution's Presidents. The committee recommends the discussion regarding SBHE meetings/schedule move forward to the full Board on September 27<sup>th</sup> to get further input.

**5. Policy 605.1 Academic Freedom and Tenure; Academic Appointments**

Chancellor Hagerott reviewed amendments to [policy 605.1](#). The committee members, present Presidents, and the Chancellor discussed best practices; they noted offering tenure to current applicants already having tenure is vital to attract the best candidates in leadership positions. The members agreed and noted it would take a few steps of action to get them where they should be in best practices.

Traynor moved, Morton seconded, to offer future incoming NDUS Presidents and recently hired Presidents to the NDUS system that held tenure in their previous position to be granted tenure.

Morton, Traynor, and Neset voted yes.

**6. Initiated Statutory Measure #3**

Ms. Katie Fitzsimmons and Chancellor Hagerott explained the impacts to students and the University System if [measure three](#) were to pass. The committee members discussed and agreed they would express an opposition to measure three. They directed Ms. Fitzsimmons to work with the Chancellor on language moving forward.

Traynor moved, Morton seconded, to recommend the Board oppose measure three.

Traynor, Morton, and Neset voted yes.

**7. 300 Policy Series Review**

Ms. Riedman explained the need to review policies that may not have amendments but need to be reviewed to bring up-to-date. The committee agreed that a review

date on policies is significant and directed Ms. Riedman to propose a process for policies with or without significant changes be reviewed and up-to-date to a future governance meeting.

**8. Information Technology Integration**

Mr. Darin King gave updates on the following information technology areas:

- a) Digital Initiative
- b) Cybersecurity
- c) Blackboard

**9. Innovations in Presidential Reviews**

Chancellor Hagerott indicated the need to research avenues allowing presidential reviews to be conducted outside a public forum to create a more effective, robust, and efficient process.

The meeting adjourned at 5:10 p.m. CT.

Approved October 18, 2018.

# State Board of Higher Education – North Dakota

Potential Discussion Areas for Board Improvement - Governance Committee

Based on the State Board of Higher Education Self-Evaluation - For the Fiscal Year ended 6/30/18

## Background

In May of 2018, North Dakota University System (NDUS) Audit Services completed an interview process with members of the State Board of Higher Education (SBHE). The questions/statements were from the SBHE Board Development Instrument (BDI) document created by the SBHE Governance committee and approved by the full SBHE on May 15, 2017.

The resulting report included summary observations as well as the detailed responses and was included on the June 28, 2018 annual SBHE meeting agenda. The SBHE Governance Committee was to discuss the report and determine next steps.

## Potential Improvement Areas

Six general categories were included as part of the BDI. Strengths and potential areas for improvement were noted in each category. The below highlights some of the potential areas of improvement.

- Policy
  - Improve understanding of current board responsibility, what form could this take?
  - Should there be a regular review of the bylaws?
  - Should the goals of the SBHE be reviewed and narrowed or refined at the mid-tier or more granular level, to lessen differing individual interpretations, should metrics be included?
  - Improve the communication process (two-way) for board leadership and the rest of the board regarding items which are not discussed fully at a regularly scheduled meeting. **Keep in mind open meetings requirements.**
  
- Relationship with the Chancellor
  - Develop a mechanism to address problems/issues throughout the year that do not necessarily affect the Chancellor goals and priorities.
  - Is a 360 review something the board would want? This would need legislative change.
  - Is there a way to make this process more data driven, and use metrics?
  - Increase the frequency of board member communication with the Chancellor both formal (dedicated time, as part of new board member orientation), and informal, creating a consistent avenue of communication.
  
- Meeting Process/Effectiveness
  - Can there be more structure and direction on items which require action versus those that are up for discussion, and those that are informational only.
  - Is there enough actual discussion of important items at meetings, or are the majority of issues pre-decided?
  - Is the process for vetting items through councils or committees fully understood?
  - Is the committee structure being used as the board wants? Should more (or less) items be handled/decided at the committee level, and how will this be communicated to the full board. What items belong at the committee level, and which should be full board action items?
  
- Communication
  - Perceived public image problem, can improvements be made in representing the good and important work that is being done by the board and the institutions to the legislature, the governor and the public?

- Can there be improvements in communication with faculty and staff?
- Most of the communication between board members is limited to meetings, what other options could be explored? **Keep in mind open meetings requirements.**

▪ *Reflections on the Past Year*

- Future funding is a challenge, what can be done?
- The board and the system need to be open to new and innovative ideas in higher education, how can the board and the system become more nimble and flexible?
- What role should the board play in the creation or support of legislation, and who will work with legislators to develop a plan that is best for higher education?
- How can the board work on building a relationship of trust with the faculty?
- How can the board do a better job of being more intentional about being the public representative, and telling our story?

▪ *Final Comments*

- Work toward getting our story out to the public.
- Evaluate the current board membership to determine if minorities or women could be better represented and discuss the pros/cons of giving the faculty and staff members to power to vote, this would require legislative change. **It is important to note that general governance is being reviewed by the higher education task force, so work on this area might best be left until those decisions are made.**

# 2019

## SBHE Committees

BFC - Budget & Finance

ASAC - Academic

Audit

Governance

## SBHE-Full Board

### January

BFC – Tuesday 15<sup>th</sup> – 11:00

ASAC – Tuesday 15<sup>th</sup> – 3:30

Audit – Thursday 17<sup>th</sup> – 11:00

Governance – Thursday 17<sup>th</sup> – 3:30

SBHE – Thursday 24<sup>th</sup>

### February

BFC – Tuesday 19<sup>th</sup> – 11:00

ASAC – Tuesday 19<sup>th</sup> – 3:30

Audit – Wednesday 20<sup>th</sup> – 11:00

Governance – Wednesday 20<sup>th</sup> – 3:30

SBHE – Thursday 28<sup>nd</sup>

### March ([Legislative Showcase 3-27-18](#))

BFC – Tuesday 19<sup>th</sup> – 11:00

ASAC – Tuesday 19<sup>th</sup> – 3:30

Audit – Wednesday 20<sup>th</sup> – 11:00

Governance – Wednesday 20<sup>th</sup> – 3:30

SBHE – Wednesday 27<sup>th</sup> – Bismarck

### April

BFC – Tuesday 16<sup>th</sup> – 11:00

ASAC – Tuesday 16<sup>th</sup> – 3:30

Audit – Wednesday 17<sup>th</sup> – 11:00

Governance – Wednesday 17<sup>th</sup> – 3:30

SBHE – Thursday 25<sup>th</sup>

### May

BFC – Tuesday 21<sup>st</sup> – 11:00

ASAC – Tuesday 21<sup>st</sup> – 3:30

Audit – Wednesday 22<sup>nd</sup> – 11:00

Governance – Wednesday 22<sup>nd</sup> – 3:30

SBHE – Thursday 30<sup>th</sup>

### June

BFC – Tuesday 18<sup>th</sup> – 11:00

ASAC – Tuesday 18<sup>th</sup> – 3:30

Audit – Wednesday 19<sup>th</sup> – 11:00

Governance – Wednesday 19<sup>th</sup> – 3:30

SBHE Retreat/Orientation – Wednesday 26<sup>th</sup>, Board mtg Thursday 27<sup>th</sup> Location TBD

Face to face  
Notes

## July No Meeting

## August - **???? Tentative**

BFC – Tuesday 20<sup>th</sup> – 11:00

ASAC – Tuesday 20<sup>th</sup> – 3:30

Audit – Wednesday 21<sup>st</sup> – 11:00

Governance – Wednesday 21<sup>st</sup> – 3:30

SBHE – Thursday 29<sup>th</sup>

## September

BFC – Tuesday 17<sup>th</sup> – 11:00

ASAC – Tuesday 17<sup>th</sup> – 3:30

Audit – Wednesday 18<sup>th</sup> – 11:30

Governance – Wednesday 18<sup>th</sup> – 3:30

SBHE – Thursday 26<sup>th</sup> – [Williston State College](#)

## October

BFC – Tuesday 22<sup>nd</sup> – 11:00

ASAC – Tuesday 22<sup>nd</sup> – 3:30

Audit – Wednesday 23<sup>rd</sup> – 11:00

Governance – Wednesday 23<sup>rd</sup> – 3:30

SBHE – Thursday 31<sup>st</sup>

## November

BFC – Tuesday 27<sup>th</sup> – 11:00

ASAC – Tuesday 27<sup>th</sup> – 3:30

Audit – Wednesday 28<sup>th</sup> – 11:00

Governance – Wednesday 28<sup>th</sup> – 3:30

## December (due to holiday in November)

SBHE – Thursday 6<sup>th</sup>

**NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION  
POLICY MANUAL**

**SUBJECT:** PERSONNEL

**EFFECTIVE:** June 16, 2011

**Section:** 605.1 Academic Freedom and Tenure; Academic Appointments

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1. An institution is a forum for ideas, and it cannot fulfill its purpose of transmitting, evaluating, and extending knowledge if it requires conformity with any orthodoxy of content and method. Academic freedom and tenure are both important in guaranteeing the existence of such a forum. This policy is intended to enable institutions under the authority of the SBHE to protect academic freedom.
2. The purpose of tenure is to assure academic freedom. Academic freedom applies to all scholarly pursuits. Freedom in scholarship is fundamental to the advancement of knowledge and for the protection of the rights of the faculty members and students. It carries with it duties and responsibilities correlative with rights. These duties and rights are set forth in SBHE Policy 401.1, relating to academic freedom, and the **1940 Statement of Principles on Academic Freedom and Tenure** (Rev. 1990), adopted by the American association of university Professors and the association of American colleges. These policies apply to all institution faculty unless otherwise indicated.
3. Tenure is awarded by the SBHE upon recommendation of the Chancellor, following review and recommendations made pursuant to the procedures established at the institution and a recommendation by the institution's president to the Chancellor. A favorable recommendation means that the applicant meets the prerequisites and criteria and the award of tenure is consistent with the sound fiscal management and academic priorities of the institution and the system of education under the control of the SBHE. Tenure recommendations submitted to the SBHE shall include a brief summary of the candidate's qualifications and reasons for the recommendation. Tenure is not an entitlement, and the granting of tenure requires an affirmative act by the SBHE. Tenure is limited to the academic unit or program area in the institution in which tenure is granted and shall not extend to an administrative or coaching position.
4. For purposes of SBHE Policies 605.1, 605.2, 605.3 and 605.4:
  - a. "Academic year" means the period, approximately nine months in duration, starting with the beginning of the fall semester and ending following completion of the spring semester.
  - b. "SBHE" means the North Dakota state board of higher education.
  - c. "Faculty" means all members of the academic staff, excluding coaches and administrators in their capacities as coaches or administrators.



- d. "Receipt" means either actual or constructive receipt. Constructive receipt means the sending party has taken all reasonable steps to ensure that the receiving party has received actual notice.
5. Because of the variety of scope and organizational structure of the institutions under the control of the SBHE, the faculty governance structure at each institution shall recommend procedural regulations to the president to implement SBHE Policies 605.1, 605.2, 605.3 and 605.4, in accordance with SBHE Policy 305.1:
    - a. Institution procedural regulations must include
      - i. Procedures for continuing evaluation of both probationary and tenured faculty members; and
      - ii. Criteria and procedures by which faculty members are evaluated and recommended for tenure.
    - b. The criteria for tenure evaluation and continuing evaluation of probationary and tenured faculty shall include scholarship in teaching, contribution to a discipline or profession through research, other scholarly or professional activities, and service to the institution and society. Institutions may adopt additional criteria. The regulations defining these criteria shall be consistent with the nature and mission of the institution.
      - i. Institutions shall establish various tenure plans appropriate to the diverse missions of individual institutions, designed to encourage emphasis on research, scholarship in teaching, service, and other areas of emphasis. Scholarship in teaching may include the use of technology or other innovative teaching methods. Service may include technology transfer and economic development. Institution regulations shall include guidelines for determining the proper weight distribution of the criteria for tenure evaluation and continuing evaluation. The guidelines shall provide for varying emphases on the enumerated criteria based upon the faculty member's plan, the needs of the institution and the background, abilities and interests of the faculty member.
      - ii. Tenured and probationary faculty contracts shall identify the faculty member's tenure plan and describe the faculty member's duties and goals. The contracts shall specify the distribution of the criteria used for evaluating performance. The contract provisions shall be reviewed and, when appropriate, revised as a part of the faculty member's periodic evaluations.
    - c. Eligibility for tenure requires a probationary period of six years of continuous academic service to the institution, during which the faculty member is evaluated at least annually according to an evaluation process designed to foster continuous improvement. The term may be extended beyond six years or the continuous service requirement may be waived in exceptional circumstances. Institutions shall establish procedures for granting extensions or waivers of the continuous service requirement in exceptional circumstances, including maternity or parental leave and appropriate accommodations for

faculty members with disabilities. Institution procedures may define additional exceptional circumstances including family emergencies or extended illness.

- d. An institution may decline to renew the contract of a probationary faculty member without cause at any time during the probationary period, subject to procedural requirements in SBHE Policies 605.1, 605.2, 605.3, and 605.4.
6. Faculty appointments shall be probationary, tenured or special.
- a. Probationary appointments are renewable annually and yield credit toward tenure. The probationary term is limited to six years of continuous academic service, excluding extensions to the term or exceptions to the continuous service requirement granted in exceptional circumstances.
    - i. An individual with previous professional experience may, at the discretion of the institution, be given tenure credit not to exceed three years for this experience, with such credit to be regarded as academic service to the institution for the purpose of these regulations. The faculty member shall be informed in writing of this policy and the institution's decision before or at the time of appointment.
    - ii. Time spent on leave of absence or developmental leave may be counted, up to a maximum of two years, as academic service for the purposes of these regulations. The amount shall be determined, and the faculty member informed in writing, including any applicable conditions, before authorization of the leave.
  - b. Tenured appointments recognize a right, subject to SBHE policy, to continuous academic year employment in an academic unit or program area as defined by an institution and stated on the contract. A faculty member shall qualify to be recommended for a tenured appointment by satisfying the criteria for tenure developed in accordance with SBHE Policy 605.1(3).
    - i. The following persons are not eligible for tenured appointment:
      1. Faculty members with a part-time or temporary appointment. However, faculty members who have been awarded part-time tenure as established by previous SBHE policy and those who accept a part-time appointment after being awarded tenure in a full-time position shall continue to have such tenure recognized.
      2. An institution's president or campus dean, except under subdivision 6(b)(ii).
    - ii. The SBHE may award tenure to an institution's chief academic officer, president or campus dean ~~to any other individual appointed to the faculty who has not met the eligibility requirements of subdivision 3(c) of this policy in exceptional circumstances, following review and recommendation made pursuant to the procedures established at an institution. When tenure is granted, the individual shall~~

~~if they have held a tenured appointment at another institution.~~

~~1. Held a tenured appointment at another institution, or~~

~~2. Been a faculty member at the institution for at least one prior academic year.~~

- iii. The SBHE may award tenure to any individual appointed to the faculty who has not met the eligibility requirements of subdivisions ~~35~~(b) and ~~35~~(c) of this policy in exceptional circumstances, defined by the institution's procedures, following review and recommendation made pursuant to the procedures established at an institution. The individual shall possess a documented record of outstanding achievement and consistent excellence in a discipline or profession gained through research, scholarly or professional activities, or service.
- c. Special appointments do not involve either tenure credit or status. Special appointments are all appointments except tenured or probationary appointments, including:
  - i. Courtesy adjunct appointments awarded in accordance with SBHE policy to professional people who contribute to the academic or research program of the institution;
  - ii. Visiting appointments for people holding academic rank at another institution of higher education;
  - iii. Appointments of retired faculty members on special conditions;
  - iv. Initial appointments supported wholly or partially by other than state appropriated funds;
  - v. Appointments clearly limited to a brief association with the institution, as defined by the institution;
  - vi. Terminal appointments given with notice of nonrenewal to faculty members who were previously on probationary appointment. A terminal appointment with notice of nonrenewal must be given to a faculty member no later than the end of the sixth year of probationary appointment if the decision is made to deny tenure;
  - vii. Part-time faculty;
  - viii. Lectureship appointments, which shall be for performance of specifically assigned academic duties only, without general faculty responsibilities;
  - ix. Graduate teaching assistant appointments;
  - x. Postdoctoral fellowships and clinical appointments; and

- xi. Other faculty appointments, not probationary or tenured, that are designed to help fulfill the institution's mission or meet long-term needs. The appointments shall be subject to an agreement describing the faculty member's duties and goals, criteria and weight distribution for evaluation criteria. The term of an appointment and agreement, or renewal thereof, may not exceed three years. The faculty member's performance and achievement of goals shall be evaluated during the final year of an appointment. An appointment may be renewed only if the evaluation demonstrates satisfactory performance.
7. The general terms and conditions of appointment shall be provided the appointee in a written contract. The contract shall state whether the appointment is probationary, tenured or special. The term of a contract, except contracts made pursuant to [clause subdivision 6\(c\)\(xi\)](#), shall generally not exceed one year. A multiple-year contract is subject to termination upon discontinuance of the program in which the faculty member is employed, non-appropriation or loss of funds, or other financial exigency. For faculty on nine- or ten-month contracts covering the traditional academic year, institutions shall, not later than June thirtieth each year, provide notice of renewal terms with a contract, agreement or appointment letter to be signed by both parties. Absent good cause or agreement extending or establishing a different deadline, faculty shall sign and return a contract or other document indicating acceptance of contract terms not later than July twentieth. Institutions shall establish procedures providing that failure to return a signed contract or other document indicating acceptance of contract terms by July twentieth constitutes a resignation resulting in termination of employment, effective July twentieth, except for good cause shown by the faculty member or unless the institution has granted an extension. Before the end of the spring semester each year, institutions shall provide notice to faculty summarizing the process and deadlines for contract renewal, including information on extending deadlines to accommodate faculty who may be traveling or not able to readily receive and respond to communications during summer months.
8. The institutional process for evaluation of faculty, the criteria and minimum expectations for promotion and for tenure, and provisions concerning required notices, shall be made known to the appointee at the time of appointment. This disclosure may be accomplished by a published description of the process, criteria, and expectations in a faculty handbook or similar document. Such provisions are subject to change according to processes established for adoption or amendment of SBHE and institutional policies. Institution procedures shall provide for annual evaluation of all full-time faculty. The procedures shall include provisions requiring that evaluations are completed in a timely and appropriate fashion and that the institution takes appropriate remedial action in response to unsatisfactory evaluations. Evaluation criteria shall relate to a faculty member's duties and goals and be appropriately weighted in accordance with the terms of the faculty member's contract. Evaluations of all teaching faculty must include significant student input.

**REFERENCE:** SBHE Policy 305.1, 401.1, 605.1 through 605.4; NDUS Procedure 605.1

**HISTORY:** Replaces portions of Policy 605, SBHE Minutes April 25, 1995; Amendment, SBHE minutes, September 19, 1996; Amendment, SBHE minutes, February 17-18, 2000; Amendment, SBHE minutes, May 30, 2001; Amendment, SBHE minutes, November 16,

2001; Amendment, SBHE minutes, March 19, 2009; Amendment, SBHE minutes, June 16, 2011.

### Initiated Constitutional Measure No. 3

The measure proposes these amendments to the North Dakota Century Code:

- remove hashish, marijuana, and tetrahydrocannabinols from the list of schedule I controlled substances in section [19-03.1-05](#);
- add penalties for individuals under the age of twenty-one in possession of, or attempting to distribute, marijuana;
- add penalties for individuals who distribute marijuana to anyone under the age of twenty-one
- amend the definition for drug paraphernalia in section [19-03.4-01](#) to only apply to non-marijuana controlled substances
- amend section [25-03.1-45](#) to create a process to automatically expunge the record of an individual who has a drug conviction for a controlled substance that has been legalized;
- create an appeals process for an individual who believes the state did not expunge a record properly;
- eliminate the state's sovereign immunity for damages resulting from expungement lawsuits
- create chapter 66-01 to define the terms marijuana and marijuana paraphernalia;
- prevent prosecution for non-violent marijuana related activity;
- nullify and repeal any North Dakota Century Code language which conflicts with chapter 66-01.

## Recreational Marijuana Measure

### EXTENT OF LEGALIZATION

- The language of the measure removes marijuana, and related substances, from the Controlled Substances list. By doing so, marijuana is no longer illegal. There are no possession limitation. There are no restrictions on growing. The only prohibition in the measure is the sale marijuana to an individual under 21.
- The measure does not establish a regulatory framework to monitor the distribution of marijuana.
- The language is by far the most liberal in the country.

### DISCREPANCIES

- The language of the measure provides “no person over the age of 21 shall be prosecuted in any court for any non-violent marijuana related activity, with the exception of the sale of marijuana to a person under the age of 21.” The measure further provides any law that conflicts with the language of the measure is null and void.
  - The language means driving while impaired is no longer a criminal activity.
  - The language explicitly indicates the “sale” to an individual under 21 is a crime, an argument can be made that the “gift” of marijuana to an individual under age 21.
  - The language prohibits a minor from possessing marijuana but it does not prohibit a minor from consuming marijuana.
  - Law and ordinances prohibiting smoking marijuana in a public place are repealed.
  - Neglect and endangerment laws, those prohibiting smoking marijuana in the presence of a child, are repealed.
  - The medical marijuana law has conflicting provisions, there is the potential that it is repealed under the measure.
- Measure language related to individuals under age 21 being treated as though they are a “minor in possess” raises jurisdictional issues.

### EXPUNGEMENT

- Individuals with prior marijuana related records are to be automatically expunged by the court. The ambiguity of the language has the potential to lead to significant issues in the future.
  - Records are not defined.
  - Failure to automatically expunge the records provides an individual with the right to a jury trial
  - If an order requires the expungement of the record, the measure provides that the state is responsible for the costs and attorney fees.

### TAXATION

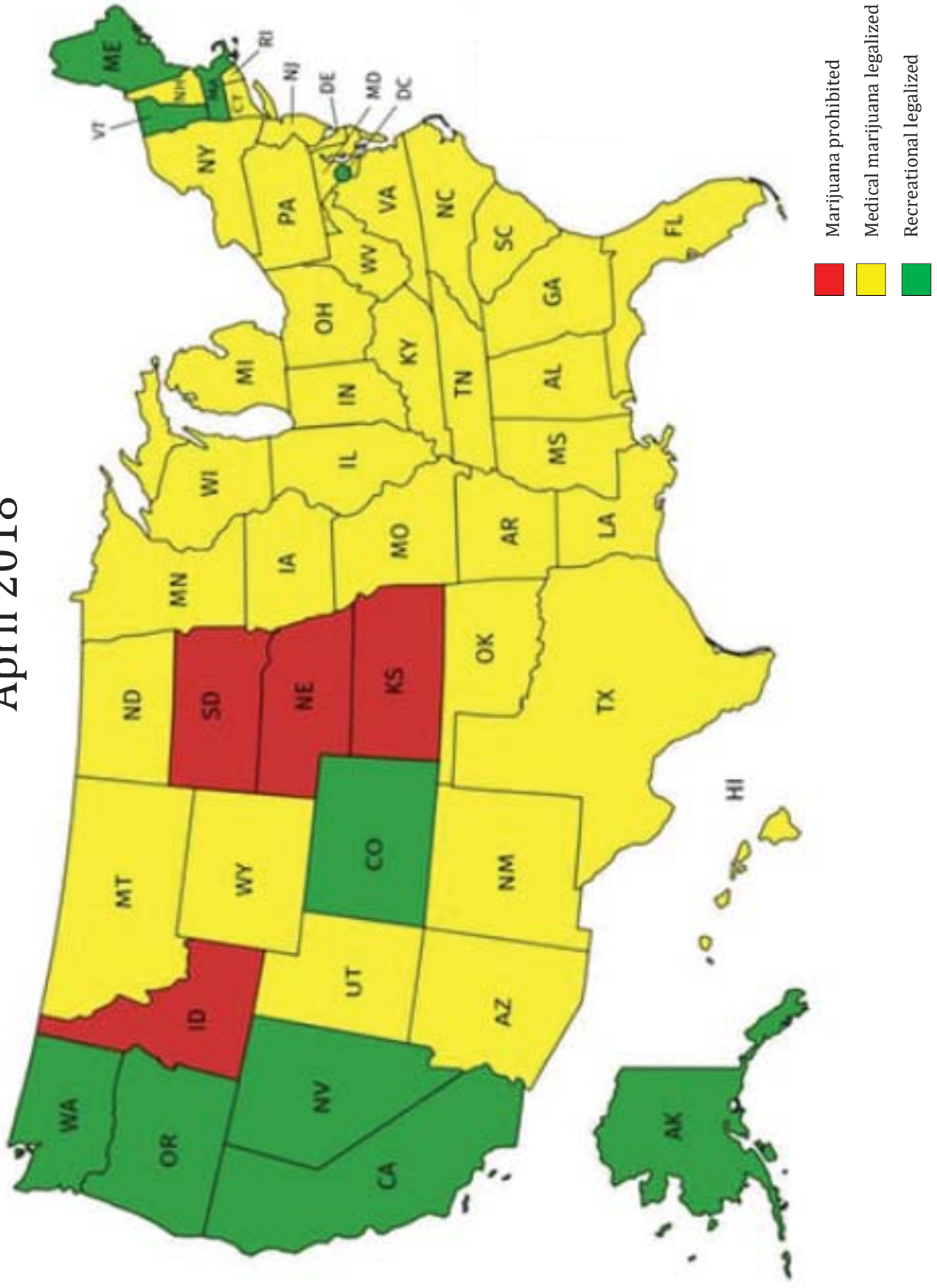
- The language of the measure does not include a special Tax therefore it will only be subject to sales tax. Colorado recreational marijuana sales are subject to three different taxes: standard sales tax, special sales tax, and an excise tax.

### TIMELINE

- The effective date of the measure is thirty days after its passage.

# Nationwide Marijuana Laws

April 2018





MEASURE 3, the initiated law will completely legalize marijuana. People will be able to possess, grow, use and distribute marijuana in any amount anywhere in the State of North Dakota. It will be the most liberal marijuana law in the country. There will only be three minor offences – possessing under 21, delivery to someone under 21, and selling to someone under 21. To assist you in being better informed please review this analysis of Measure 3.

## Analysis of Marijuana Measure 3

Measure 3 is an initiated law which contains five sections

Section 1 sets forth the entire law listed scheduled substances as set forth in NDCC 19-03.1-05. The measure simply deletes any reference to marijuana or its derivative hashish. This means marijuana is no longer illegal.

Section 2 sets forth the prohibited acts law in NDCC 19-03.1-23 simply striking out the current language and replacing it with new language of subsection 10 and a new subsection 11as follows: 10. Any individual under the age of 21 found in possession, of marijuana shall be held to the same penalties as though they were a minor in possession of alcohol whatever those may be.

11. Any individual who distributes marijuana to those under the age of 21, or is an individual under the age of 21 who attempts to distribute marijuana is subject the same penalties as though they were convicted of selling alcohol to a minor whatever those may be.

Section 3 sets forth the drug paraphernalia law in 19-03.4-01 and strikes out any reference to marijuana.

Section 4 adds new language to NDCC 25-03.1-45 which currently sets forth a very brief law on the expungement of mental health treatment. The new language provides for the expungement of all marijuana convictions **WITHIN 30 DAYS** after the election!! And the state has to pay the costs of anyone who sues over expungement. It will be impossible to expunge over 1709,000 records in 30 days!

Section 5 creates new NDCC Chapter 66.1-01. It contains three subsections.

### 66-01 01. Definitions

1. "Marijuana" means any plant in the cannabis family, as well as any substance derived from or contained in the cannabis plant

2. “Marijuana paraphenalia” [sic] means any item related to any activity regarding the use, manufacture, distribution, cultivation, or purification of marijuana

66-01 02. Criminal Penalties

1. No person over the age of 21 shall be prosecuted in any court for any non-violent marijuana related activity, with the exception of the sale of marijuana to a person under the age of 21. Activites [sic] include but are not limited to; growing manufacturing, distributing, selling, or testing of marijuana.

2. No person over the age of 21 shall be prosecuted in any court for any drug paraphenalia [sic] relating to any non-violent marijuana activity.

**66-01 03. Statement of Supremacy**

**1. In the event of the existence of any language in the North Dakota Century Code which conflicts with this chapter those sections are hereby nullified and repealed.**

This last section of this measure making marijuana supreme over all other laws will make North Dakota into the “Wild West” for the possessing, use, growing, use and distribution of marijuana in any amount anywhere. **Being the supreme law marijuana can be smoked in public buildings, and persons using marijuana can drive any vehicle under the influence of marijuana.** Unlike the several states that have legalized marijuana, Measure 3 sets up no rules or regulations whatsoever, and it does not create any source of revenue to even attempt to handle the problems it will cause.

**Out of control marijuana will be a disaster for North Dakota!**

Prepared by Judge and former Attorney General Bob Wefald, Chairman  
North Dakotans Against the Legalization of Recreational Marijuana  
Please support this effort. Send your check payable to No On 3 to:  
No On 3, PO Box 2639, Bismarck ND 58502-2639

**PLEASE VOTE NO ON MEASURE 3 ON  
NOVEMBER 6TH!!**

Sponsored and paid for by No On 3, PO Box 2639, Bismarck ND 58502-2639  
Judge Bob Wefald, Chairman