



The Nebraska Green Amendment

Strengthening Environmental Justice, Protection & Healthy Communities

Passage of a Nebraska Green Amendment will allow the people of Nebraska to proactively protect our environment, communities and state economy. Our state constitution provides the overarching legal structure, principles and obligations to which all state government action must conform. A Nebraska Green Amendment will ensure that all of government in the state – including all branches of government at both the state and local level - will work to advance proactive environmental protection at every level of the decision-making process. A Nebraska Green Amendment will help ensure that existing environmental laws and regulations are implemented to their full potential; will provide a basis for advancing new needed protections (e.g. through legislation, regulation or government action); and will provide a basis to secure protective government action when a gap in the law is identified.

BIPOC communities in Nebraska continue to be disproportionately impacted by environmental pollution and degradation. Creating an overarching and enforceable constitutional right to a clean and healthy environment and natural resources – a right that must be equitably protected - is an essential value of the Nebraska Green Amendment for helping to secure and advance environmental justice. The Nebraska Green Amendment will ensure all communities – regardless of race, ethnicity, tribal affiliation, socioeconomics or geography – have the same rights to clean, safe and healthy environments and will create a constitutional duty on all government officials to protect natural resources and environmental rights equitably for all people.

The Nebraska Green Amendment will place the rights to a clean and healthy environment legally on par with other fundamental rights such as private property rights, free speech, and religious freedom. When two rights are implicated by government action – such as property and environment – government must work to balance and protect both sets of rights.

The Nebraska Green Amendment will strengthen existing law as a tool for environmental protection, as well as provide a foundation for passage and implementation of strengthened protections. The Green Amendment will provide overarching and strengthened guidance for how government officials should interpret, apply and enforce existing environmental protection laws. By creating a higher recognition and protection for environmental rights and natural resource protection in the state, the Green Amendment will strengthen how existing laws are interpreted and applied, ensuring they become a tool for securing the constitutional rights and obligations in the amendment.

When there are critical issues of environmental concern not addressed by existing law, the Nebraska Green Amendment can be utilized to fill gaps in protection until such time as the law catches up. PFAS was allowed to contaminate drinking water and environments across Nebraska for

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decades because there were no laws or regulations that empowered government to provide needed protections. A Green Amendment can help fill environmental protection gaps.

The Nebraska Green Amendment specifically provides for preservation of the human health, cultural, recreational, scenic, and natural values of the environment. Recognizing these as priority values of the state, the amendment will ensure they are given due protection and preservation whenever government acts.

Throughout the legislative, regulatory, permitting and decision-making process at all levels of government, the Nebraska Green Amendment will ensure Nebraska government officials take steps to protect the state's natural resources for present and future generations. Generational protection and trustee obligations ensure a more informed and holistic approach to environmental action, including an obligation to consider and address cumulative impacts across geography and over time.

The trustee obligation to protect the state's natural resources for the benefit of the people of the state will provide clear and understandable fiduciary obligations guiding how government officials must fulfill their constitutional obligation. For example, as trustee of the state's natural resources government officials must demonstrate they have acted with prudence and undertaken informed decision-making before taking action - including assessment of cumulative impacts, existing conditions, relevant science, and environmental justice impacts. In addition, the fiduciary obligations of a trustee will ensure government is prioritizing environmental protection for the benefit of the people (the beneficiaries) rather than prioritizing the pursuit of profits, industry goals or political agendas. And, as a trustee, government officials will have to ensure that natural resources are being protected equitably for all people and across the generations.

The Nebraska Green Amendment will strengthen the healthy economic growth that comes from environmental protection, and will help state and local government to avoid the costly impacts of environmental harm including illness and healthcare costs; emergency response services and cleanup costs associated with flooding, wildfires and drought; and declining property values. The Green Amendment will ensure government actions avoid environmental degradation rather than responding to it after-the-fact.

The Nebraska Green Amendment will strengthen environmental protections beyond existing state protections by explicitly recognizing an independent, enforceable right of the people to a clean and healthy environment; mandating a focus on preventing environmental pollution and degradation rather than a focus on control of harm; elevating environmental rights to the constitution's Bill of Rights which brings additional legal strength for environmental protection and environmental justice; mandating consideration and protection of natural resources for the benefit of future generations; and ensuring informed government decision-making is a constitutional pre-requisite to taking action that could infringe upon environmental rights.

It is the right of the people of Nebraska to determine if they want the right to a clean, safe and healthy environment added to the state constitution. The constitution is the People's document. It should be left to them to determine whether or not to amend it. A vote of the legislature will not in and of itself amend the constitution, it will mean the people of the state can vote on whether they want to amend their constitution.

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