

Initiative & Referendum in Nebraska

A Legislative Research Office Backgrounder



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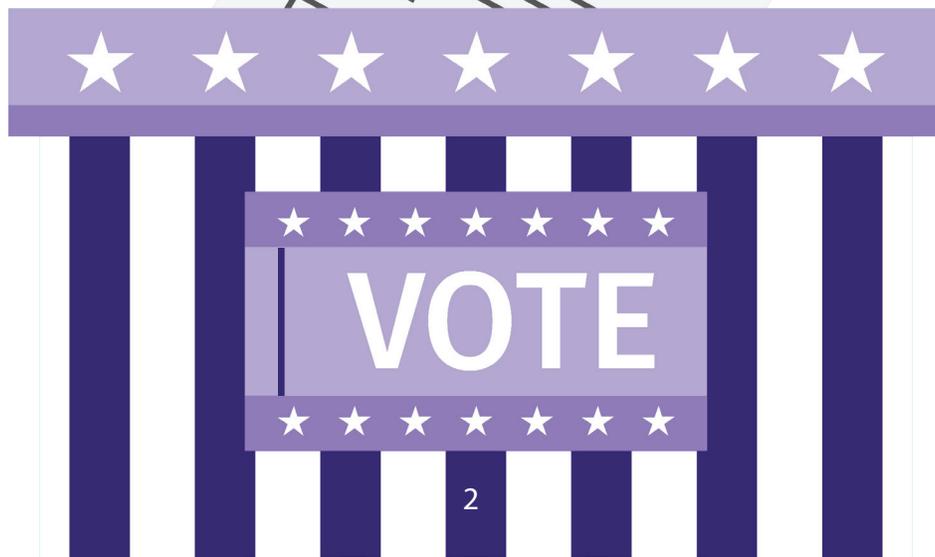


Introduction

During an election season, political discussions dominate the airwaves, often centering on candidates for political office, while ballot issues take a backseat. Yet, ballot issues afford voters a hands-on opportunity to directly participate in the democratic process by implementing or eliminating a state law or constitutional amendment.

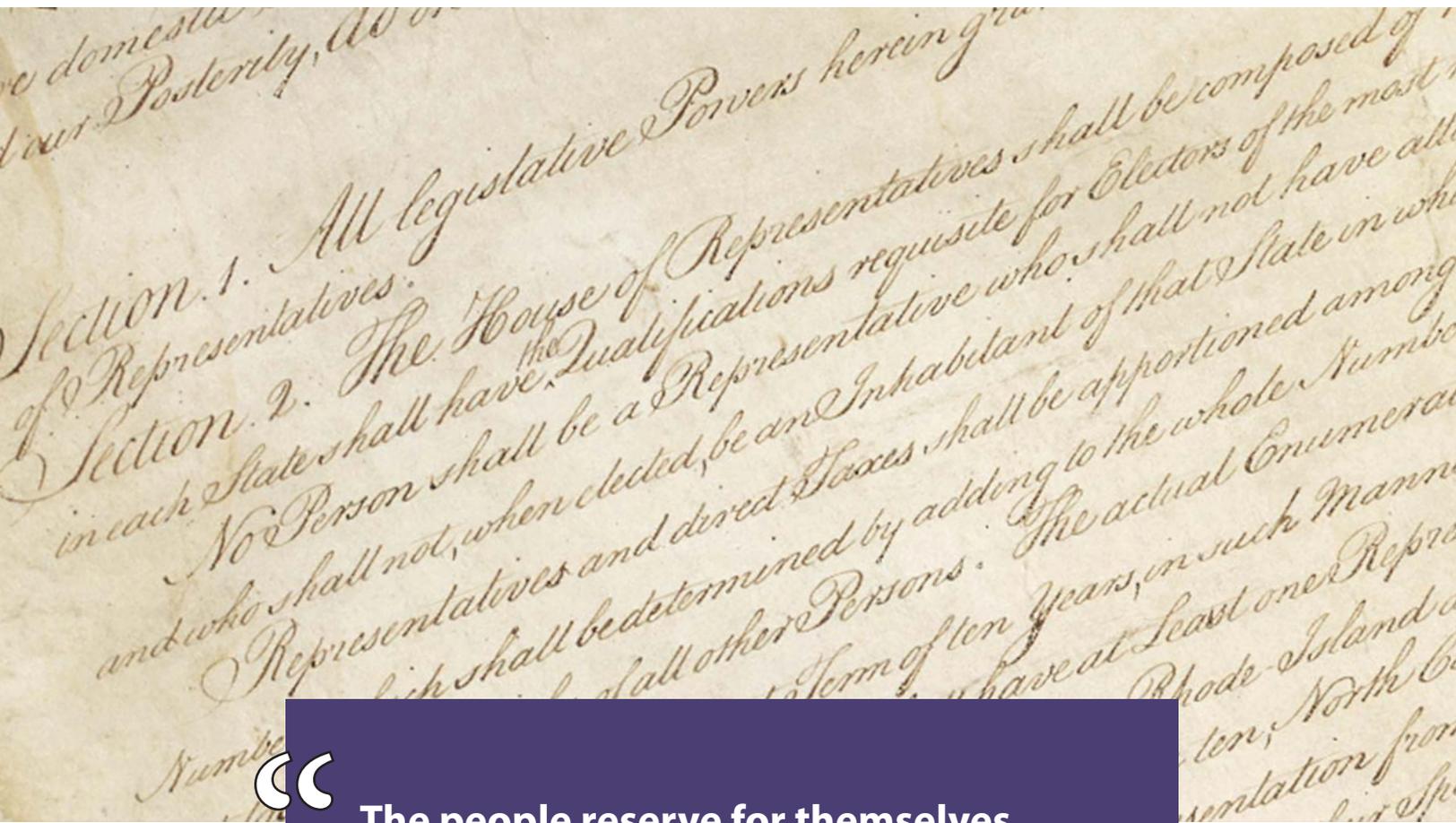
Known collectively as “initiative and referendum,” these two processes give citizens a front-row seat in the policymaking process.

This LRO Backgrounder— Initiative and Referendum in Nebraska— generally describes the initiative and referendum processes and the role voters play, briefly discusses the legislative and judicial history of the processes, highlights some past ballot measures, and illustrates what other states do.





Initiative and Referendum in the Constitution



“The people reserve for themselves the power to propose laws and amendments to the Constitution and to enact or reject the same at the polls.”

Initiative and referendum have been an integral part of the Nebraska Constitution since 1912.¹ Article III, sec. 1, states:

The legislative authority of the state shall be vested in a Legislature in one chamber. The people reserve for themselves the power to propose laws and amendments to the Constitution and to enact or reject the same at the polls, independent of the Legislature, which power shall be called the power of initiative. The people also reserve power at their own option to approve or reject at the polls any act, item, section, or part of any act passed by the Legislature, which power shall be called the power of referendum.

While the initiative and referendum processes are similar, distinctions between the two exist. Following is a general description of each process.

1. Initiative and Referendum processes and procedures are prescribed in Article III, secs. 1 to 4 of the Nebraska Constitution and Neb. Rev. Stat. secs. 32-1401 to 32-1416. Copies of the provisions are included in this document's appendix.



Basics of the Initiative Petition Process

The initiative process allows citizens to propose (or initiate) a statute or constitutional amendment. The process starts when sponsors file a proposed petition with the Secretary of State.

The proposal must include:

- The object of the petition;
- The text of the measure; and
- A sworn statement containing the names and addresses of all petition sponsors.

The Secretary of State, in turn, transmits the proposed petitions to the Revisor of Statutes, who has 10 days to review the proposal, suggest changes in form and draftsmanship, and return the proposed petition to the Secretary of State. The proposed petition, with any recommended changes, is then given to the initiative's sponsors, who can accept or reject the changes. The proposed changes are kept confidential for five days, but ultimately become part of the public record.

Once sponsors sign off on the petition language, the Secretary of State authorizes making five camera-ready copies of the petition, which sponsors use to print their petitions. The next step is collecting signatures from the public.

What are the requirements for signing a petition? Persons signing a petition must:

- Be registered to vote by the time the petitions are presented to the Secretary of State;
- Sign their own name;
- Sign only once; and
- Not accept anything of value in exchange for signing the petition.

If, while the petitions are being circulated for signatures, a change in petition language becomes necessary, sponsors must stop collecting signatures and restart the initiative process, beginning with the presentation to the Secretary of State, before petitions with the revised language can be circulated.

State law requires petitioners to collect a certain number of signatures based on the overall number of votes cast for Governor at the general election immediately preceding the filing of an initiative petition. To place an initiated statute on the ballot, sponsors must collect signatures from seven percent of registered voters. For an initiated amendment to the Constitution, sponsors must collect signatures from 10 percent of registered voters. Both initiative measures require that signatures be from at least five percent of voters from 38 of Nebraska's 93 counties. This is known as the two-fifths rule.

Once the signature threshold is reached, the sponsors submit the petitions to the Secretary of State no less than four months prior to a general election. The petitions are separated by county, and the Secretary of State ensures the minimum number of signatures have been collected prior to sending the petitions to county election officials for verification.

County election officials must verify circulators complied with state law and compare petition signatures against voter registration records. If any signatures belong to non-registered voters or other circumstances have caused signatures to be invalidated, the official notes the issue on the petition next to the signature.

Local election officials have 40 days to return the verified petitions to the Secretary of State, who reviews the petitions and tallies valid signatures. If the Secretary of State finds a sufficient number of valid signatures, the measure is certified for the ballot.

Once an initiated measure clears this hurdle, the Secretary of State is responsible for submitting the measure to the voters at the first general election held not less than four months after the filing of a verified initiative petition. An initiated measure becomes law or part of the Constitution when a majority of votes, but not less than 35 percent of the total vote, are cast in favor of the measure.

No law enacted by an initiative petition can be amended, repealed, modified, or impaired at any time, except upon a vote of two-thirds of all members elected to the Legislature.

No measure, in either form or substance, can be submitted to the voters by way of initiative more frequently than once in three years.



Basics of the Referendum Process



The referendum process allows citizens to “refer” laws passed by the Legislature to the ballot so voters can approve or repeal the legislation. In essence, the referendum process gives voters the “final say” on measures passed by the Legislature.

The referendum process shares many similarities with the initiative process.

The process begins when a petition is filed with the Secretary of State. Petitions must be filed no later than 90 days after sine die adjournment of the Legislature that passed the measure which is the subject of the referendum.

The proposal must include the object of the petition, the text of the measure, and a sworn statement containing the names and addresses of all petition sponsors. The information is transmitted to the Revisor of Statutes for review. Any suggested changes are provided to the referendum sponsors for consideration.

Once changes have been accepted or rejected by the sponsors, the forms are ready to be printed and circulated to the voters for signatures. Any revisions to language after this point restart the referendum process.

The requirements to sign a referendum petition mirror those of the initiative process. You must be a registered voter by the time the petitions are submitted to the Secretary of State. You may not sign any name other than your own. You may not sign the same petition more

than once. And you may not accept anything of value in exchange for signing the petition.

Similarly, the signature requirement is determined by the overall number of votes cast for Governor at the general election immediately preceding the filing of a referendum petition. To place a referendum measure on the ballot, sponsors must collect signatures from at least five percent of the registered voters of the state and must comply with the two-fifths rule.

When a referendum is signed by at least 10 percent of the registered voters in compliance with the two-fifths rule, the referred act or part of the act does not take effect until after the General Election.

The Secretary of State transmits petitions to each county election official, following the same verification process used in the initiative process. Upon verification of a sufficient number of valid signatures, the Secretary of State certifies the referendum measure for the ballot.

The Secretary of State is responsible for submitting the referendum measure to voters at the first General Election held at least 30 days after the petition is filed. Each petition must specify the title of the act being referred and in cases when only a portion of the act is being referred, the petition must specify the statutory section(s) number or portion of sections of the act.

In order to override legislation passed by the Legislature, a majority of votes— but not less than 35 percent of total votes cast— must be cast to “repeal.”



Initiative and Referendum Petition Ballot Requirements

When an initiative or referendum petition is verified ballot ready, the Nebraska Secretary of State coordinates with the office of the Attorney General to develop a ballot title and a statement that clearly explains the effect of your vote.

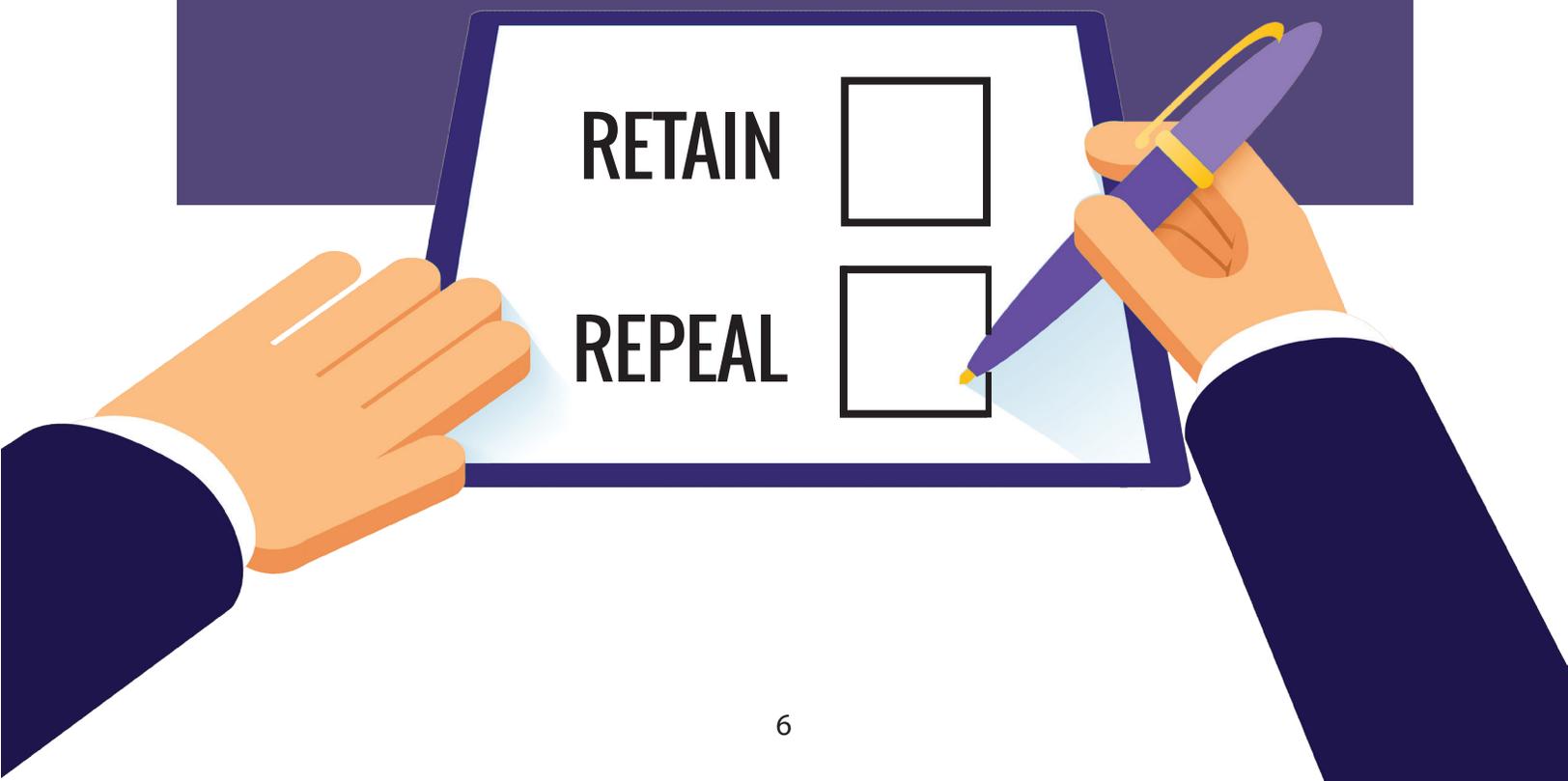
The language provided on the ballot for an initiative measure is worded so those in favor of adopting the measure vote "For" and those opposing the adoption of the measure vote "Against".

The ballot language for a referendum works a little differently. It's important to remember that voters have an opportunity to *override* the action of the Legislature. Referendum ballot language is worded so those in favor of keeping the bill enacted by legislators vote to "Retain" and those opposing the enactment of the bill vote to "Repeal".

Prior to any general election containing an initiative or referendum measure, the Secretary of State must publish the measure in all legal newspapers in the state once each week for three consecutive weeks. The printed ballot language must include a true copy of the ballot title and text and the number assigned each measure to be submitted to the voters.

Upon passage of an initiative or referendum by the voters, copies of the measure are filed with the Secretary of State, and a certified copy of the Governor's proclamation declaring the measure approved by the people is preserved and printed with the general laws enacted by the next session of the Legislature.

If conflicting measures are submitted to the voters at the same election and both are approved, the measure receiving the highest number of affirmative votes becomes law.





Legislative and Judicial History: Highlights of Initiative and Referendum

Since enactment in 1912, the initiative and referendum processes have been amended numerous times. Following are highlights of changes made by the Legislature and the courts.

In 1988, the U.S. Supreme Court struck down a Colorado law that placed an absolute ban on paid circulators because it imposed a burden on political expression in violation of the First and Fourteenth Amendments of the U.S. Constitution.³

In an effort to address cases of fraud and abuse by petition sponsors, in 1994 the Legislature banned petition circulators from receiving payment on a per-signature basis.⁴

Additional legislation adopted in 1994 required language on the petition to identify the paid or volunteer status of circulators. Despite legal challenges, courts have upheld the constitutionality of this law.

Constitutional amendments were proposed in 1998 to clarify the rules surrounding the collection of signatures for an initiative or referendum petition containing multiple subjects, which were later placed on the ballot as separate measures.⁵ The Legislature amended the resolution to

create two separate ballot proposals: Part A required initiative measures to contain only one subject; Part B required referendum measures to refer to only one act of the Legislature.

Both ballot measures were placed on the 1998 Primary Election ballot and adopted. Though there have been recent legal challenges to the constitutionality of Nebraska's single subject law, the challenges were either dismissed or enjoined based on other legal principles.⁶

In 2008, the Legislature adopted laws requiring petition circulators be eligible voters in Nebraska. Supporters said the change was intended to protect Nebraska voters from fraud and ensure petition circulators were subject to subpoena.⁷

Nebraska's U.S. District Court determined the residency requirement for petition circulators was unconstitutional because it infringed upon First Amendment rights guaranteed by the U.S. Constitution.⁸

The District Court ruling led the Legislature to repeal the residency requirement and replace it with a requirement that petition circulators be 18 years of age. The age limit previously passed constitutional muster.



3. *Meyer v. Grant*, 486 U.S. 414 (1988).

4. Laws 1994, LB 76, sec. 198.

5. Laws 1997, LR 32CA, sec. 1.

6. *Loontjer v. Robinson*, 266 Neb. 902 (2003).

7. *Bernbeck v. Gale*, D. Neb. (2011).

8. Laws 2008, LB 39, sec. 2.



Initiative and referendum in other states

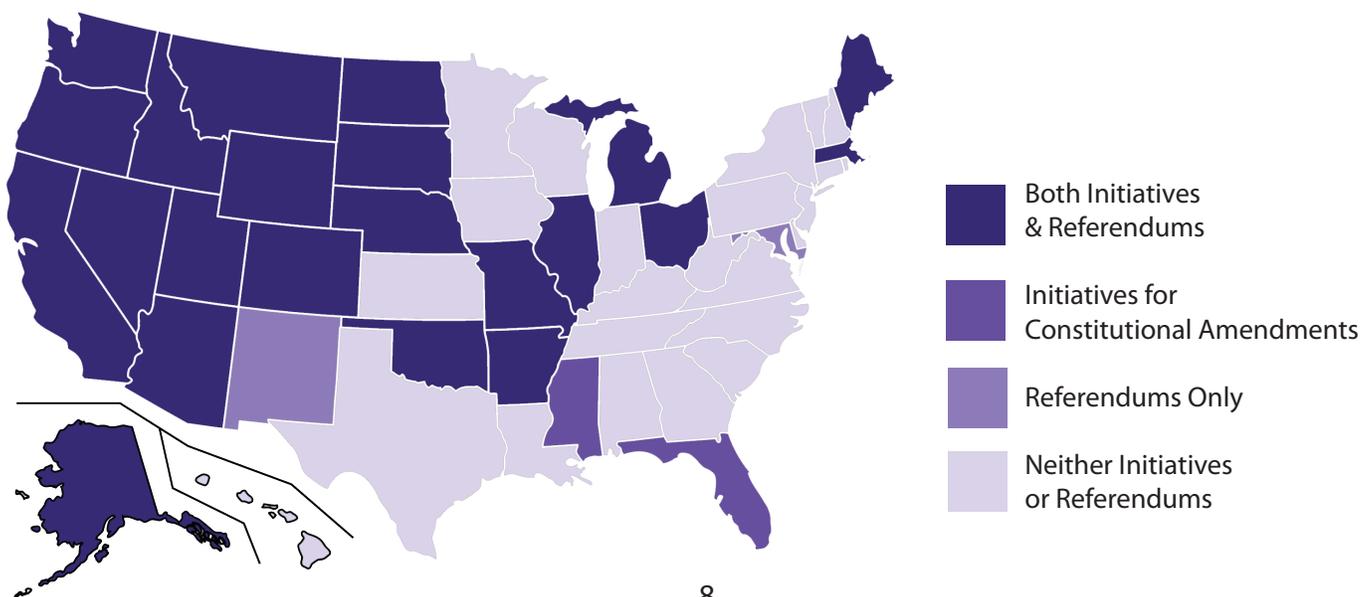
Like Nebraska’s Unicameral Legislature, initiative and referendum is a product of the Progressive Era of the early 20th century. At the time, many progressives believed that state legislatures were dominated by wealthy interests, subservient to the powerful railroad and oil companies of the gilded age. To counter state legislatures’ collusion with these monopolies, reformers sought a method for average people to become directly involved in passing laws. One of these methods was initiative and referendum. In 1898, South Dakota became the first state to adopt a process of lawmaking by ballot initiative.

Nationally, there are essentially two types of initiatives -- direct and indirect. In a direct initiative, a new proposal goes directly on the ballot. This is the kind used in Nebraska. In an indirect initiative, a proposal first goes to the legislature, which has the option to enact, reject, or amend the measure. Depending on what the legislature does, proponents may continue to pursue the measure and place it on the ballot for a popular vote. In some states with an indirect process, the legislature may submit a competing measure that appears on the ballot alongside the original proposal. Today, a total of 24 states have some form of initiative process on the books.

There are also two primary types of referendums: the legislative referendum and popular referendum. In a legislative referendum, the Legislature refers a measure to the voters for their approval, such as a constitutional amendment or in some states, tax increases. A popular referendum is a device which allows voters to approve or repeal a legislative act. Currently, 23 states have some kind of popular referendum on the books. Most of these states are also initiative states.

State	Initiative	Referendum
Alaska	Indirect	Yes
Arizona	Direct	Yes
Arkansas	Direct	Yes
California	Direct	Yes
Colorado	Direct	Yes
Idaho	Direct	Yes
Maine	Indirect	Yes
Maryland	None	Yes
Massachusetts	Indirect	Yes
Michigan	Indirect	Yes
Missouri	Direct	Yes
Montana	Direct	Yes
Nebraska	Direct	Yes
Nevada	Indirect	Yes
New Mexico	None	Yes
North Dakota	Direct	Yes
Ohio	Indirect	Yes
Oklahoma	Direct	Yes
Oregon	Direct	Yes
South Dakota	Direct	Yes
Utah	D & I	Yes
Washington	D & I	Yes
Wyoming	Indirect	Yes

This chart only includes states that have an intuitive process for statutes. It does not include states which only have an initiative processes for constitutional amendments. Source: NCSL





Sample Ballot Measures:

Creating the Unicameral Legislature

The very first ballot measure was proposed in 1914. Since then, there have been more than 60 voter-driven issues petitioned onto the ballot.

This Backgrounder discusses two initiative measures and three referendum measures, chosen to showcase the significant issues addressed by citizen initiatives. The Nebraska Blue Book contains a complete list of initiative and referendum measures.

George Norris, the iconic progressive U.S. senator from McCook, was a strong opponent of the bicameral system of government because he viewed it as inefficient and archaic. In the 1920s, Norris became infatuated with the concept of a unicameral legislature and would spend nearly the next decade traveling across Nebraska campaigning for the adoption of a one-house state government.

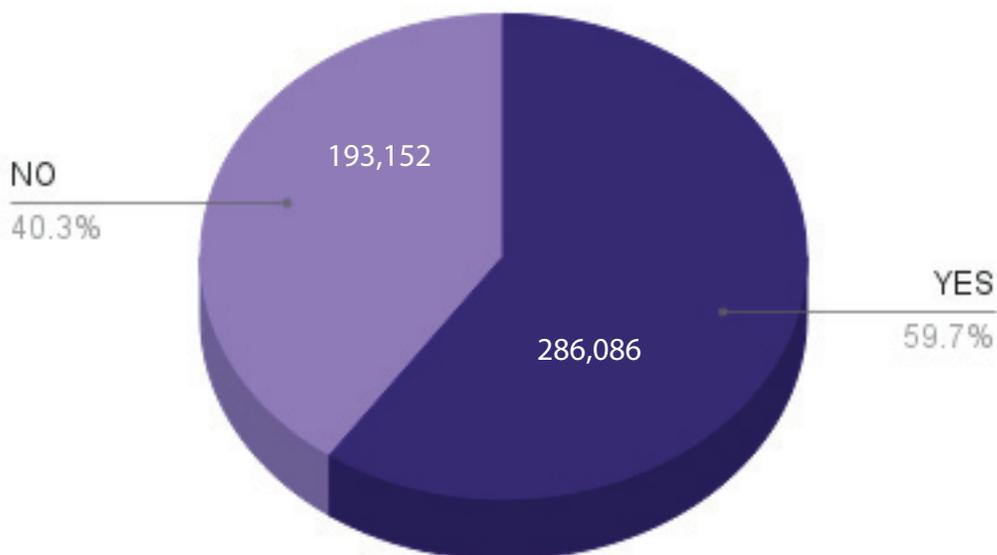
In 1934, advocates of the unicameral system successfully used the initiative petition process to collect about 60,000 signatures to place the following language on the General Election ballot:

“An amendment to the Constitution of Nebraska providing that beginning with the regular session of the legislature in 1937 the legislative authority of the state shall be vested in a legislature consisting of one house of not less than thirty nor more than fifty members, the members to be nominated and elected in a non-partisan manner.”

Voters approved the measure adopting the nation’s only unicameral, nonpartisan legislature.



1934 Unicameral Initiative Petition





Expanding gambling in Nebraska

Gambling is a regular topic for constitutional amendment. The state Constitution of 1875 simply forbade the Legislature from authorizing any forms of gambling for any purpose. Led by citizen initiative in 1934, voters approved allowing the Legislature to authorize pari-mutuel betting on horse races. Since then, other forms of gambling such as bingo and lotteries, have been constitutionally authorized (albeit, not all by citizen initiative).

In 2004, gambling proponents placed a measure on the ballot in an attempt to circumvent the constitutional hurdle to approve new forms of gambling. The measure would have allowed the initiative process to be used to propose laws authorizing and regulating gambling. This

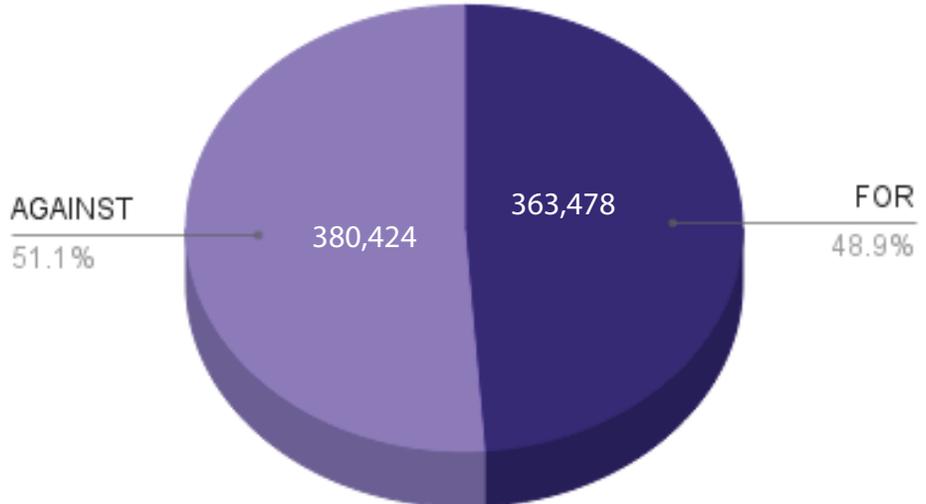
would have made legalizing new forms of gambling easier because initiatives to enact laws have lower signature requirements than those seeking to adopt constitutional amendments.

Initiative 417 read as follows:

"Shall the Nebraska Constitution be amended to provide that the people may enact laws by initiative measure to provide for the authorization, operation, regulation, and taxation of all forms of games of chance?"

Initiative 417 was narrowly defeated.

2004 Gambling Initiative





A referendum on the school aid formula

In 1990, the Legislature passed the Tax Equity Educational Opportunities Support Act (TEEOSA).⁹ Generally, the 1990 TEEOSA formula provided for tax increases and distributed the money to fund public education.

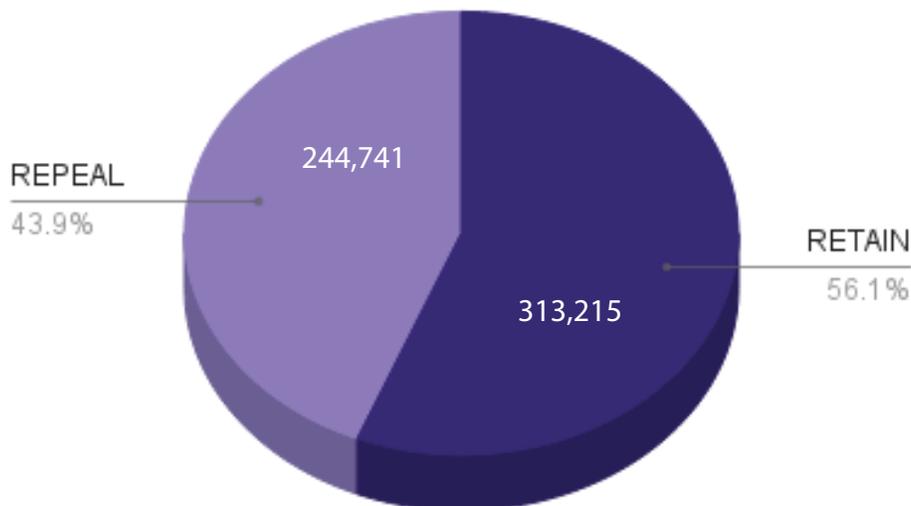
An organization named Nebraskans Against Higher Taxes collected the necessary signatures to place a referendum to repeal the act on the 1990 General Election ballot. Referendum No. 406 appeared on the ballot as follows:

“Shall Legislative Bills 1059 and 1059A, enacted by the Second Session of the Ninety First Nebraska Legislature, the purposes of which are to increase state support for public school districts and create formulas for apportionment of state support, to reduce reliance on property taxes for the support of public school districts through increased state sales and income taxes, and to limit, with various exceptions, the growth of the general fund budgets of public school districts and property tax increases by certain political subdivisions, be retained?”

The majority of voters favored retaining the school funding formula. In rural areas of the state, voters supported TEEOSA by a two-to-one or three-to-one margin and the law was upheld in 76 of Nebraska’s 93 counties.



1990 TEEOSA Referendum



9. Laws 1990, LB 1059 and LB 1059.



Mandatory seat belts

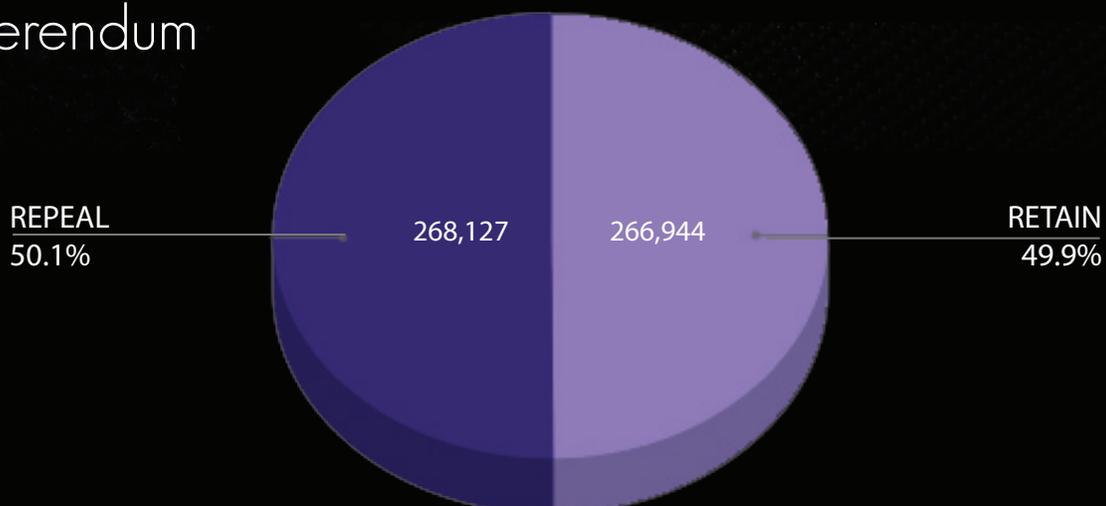
Legislation adopted in 1985 mandated that drivers and front-seat passengers wear seat belts or face a fine of \$25. A violation of the law was a secondary offense and required a law enforcement officer to stop a driver for a separate offense before checking that proper restraints were in use.

A group called Citizens Against Mandatory Seat Belts collected signatures to place Referendum No. 401 on the General Election ballot in 1986:

"Shall section 1 of Legislative Bill 496, enacted by the Eighty-Ninth Legislature of the State of Nebraska in its first session, the purpose of which is to require any driver and front seat passenger of a motor vehicle operated on a street or highway in the state of Nebraska wear a safety belt, be retained?"

An opposing group, Nebraskans for Safety, failed to convince enough voters to retain the measure and the seat belt requirement was abolished. Opposition to the law was strongest in rural Nebraska with 85 counties voting in favor of repeal. In 1992, the Legislature reinstated mandatory occupant protection systems for all Nebraska drivers.¹⁰

1986 Seatbelt Referendum



10. Laws 1992, LB 958, sec. 6.



Retaining the Death Penalty in Nebraska

On May 20, 2015, the Legislature passed LB 268 to abolish the death penalty in Nebraska. Governor Pete Ricketts vetoed the legislation, but lawmakers voted to override the Governor's veto. In the summer of 2015, an organization called "Nebraskans for the Death Penalty", circulated a ballot petition seeking to reinstate the death penalty.

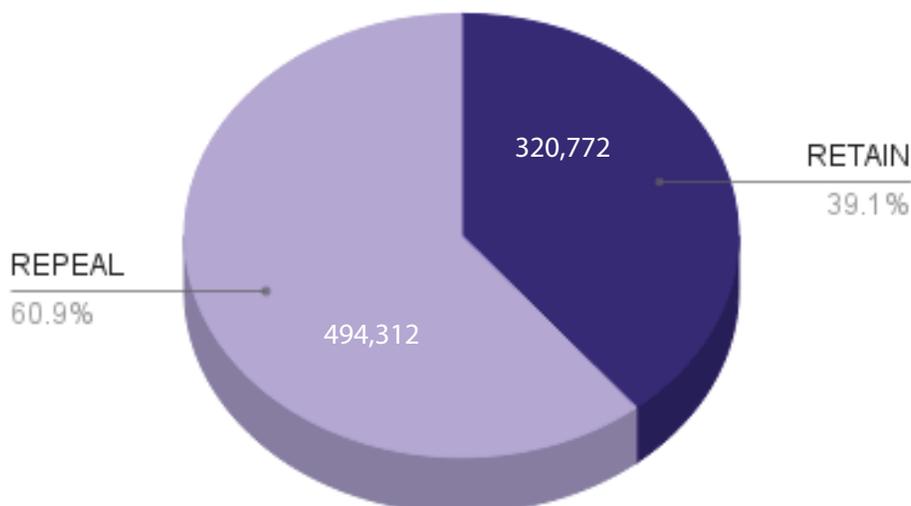
The group needed to submit 56,942 valid signatures (5 percent of all registered voters) in order to put a statewide referendum on the 2016 ballot. A total of 113,883 (10 percent of voters) was required to suspend the law from taking effect until the election. In September 2015, Secretary of State John Gale reported that 120,479 signatures had been certified, suspending the law and putting the following language on the 2016 general election ballot:

Referendum No. 426- The purpose Legislative Bill 268, passed by the First Session of the 104th Nebraska Legislature in 2015, is to eliminate the death penalty and change the maximum penalty for the crime of murder in the first degree to life imprisonment. Shall Legislative Bill 268 be repealed?

On November 8, 2016, Nebraskans voted to overturn the Legislature's decision by a 61 percent to 39 percent margin, keeping capital punishment in the state.



2016 Death Penalty Referendum





Conclusion

Lawmakers and others often refer to the people of Nebraska as “the Legislature’s second house.” Initiative and referendum guarantees the right of Nebraskans to directly impact the direction of state policy.

The Legislative Research Office conducts public policy and legal research for senators and staff. If you have any questions or would like additional information on Nebraska’s initiative and referendum processes or any other issue, please contact us at (402) 471-2221 or visit us in Room 1201.



Additional Resources

- 1) Nebraska Secretary of State, How to Use the Initiative and Referendum Process in Nebraska, http://www.sos.ne.gov/elec/pdf/init_ref.pdf.
- 2) Conference of State Legislatures Book of the States, 2015 Ballot Propositions, <http://knowledgecenter.csg.org/kc/content/2015-ballot-propositions>.
- 3) National Conference of State Legislatures, Elections and Campaigns, <http://www.ncsl.org/research/elections-and-campaigns.aspx>.



Appendix

Nebraska Constitution

Article III-1

Legislative authority; how vested; power of initiative; power of referendum.

The legislative authority of the state shall be vested in a Legislature consisting of one chamber. The people reserve for themselves the power to propose laws and amendments to the Constitution and to enact or reject the same at the polls, independent of the Legislature, which power shall be called the power of initiative. The people also reserve power at their own option to approve or reject at the polls any act, item, section, or part of any act passed by the Legislature, which power shall be called the power of referendum.

Source

- Neb. Const. art. III, sec. 1 (1875);
- Amended 1912, Laws 1911, c. 223, sec. 2, p. 671;
- Amended 1934, Initiative Measure No. 330;
- Amended 2000, Laws 1999, LR 18CA, sec. 3.

Article III-2

First power reserved; initiative.

The first power reserved by the people is the initiative whereby laws may be enacted and constitutional amendments adopted by the people independently of the Legislature. This power may be invoked by petition wherein the proposed measure shall be set forth at length. If the petition be for the enactment of a law, it shall be signed by seven percent of the registered voters of the state, and if the petition be for the amendment of the Constitution, the petition therefor shall be signed by ten percent of such registered voters. In all cases the registered voters signing such petition shall be so distributed as to include five percent of the registered voters of each of two-fifths of the counties of the state, and when thus signed, the petition shall be filed with the Secretary of State who shall submit the measure thus proposed to the electors of the state at the first general election held not less than four months after such petition shall have been

filed. The same measure, either in form or in essential substance, shall not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once in three years. If conflicting measures submitted to the people at the same election be approved, the one receiving the highest number of affirmative votes shall thereby become law as to all conflicting provisions. The constitutional limitations as to the scope and subject matter of statutes enacted by the Legislature shall apply to those enacted by the initiative. Initiative measures shall contain only one subject. The Legislature shall not amend, repeal, modify, or impair a law enacted by the people by initiative, contemporaneously with the adoption of this initiative measure or at any time thereafter, except upon a vote of at least two-thirds of all the members of the Legislature.

Source

- Neb. Const. art. III, sec. 1A (1912);
- Adopted 1912, Laws 1911, c. 223, sec. 2, p. 671;
- Amended 1920, Constitutional Convention, 1919-1920, No. 4;
- Amended 1988, Laws 1988, LR 248, sec. 1;
- Amended 1998, Laws 1997, LR 32CA, sec. 1;
- Amended 2004, Initiative Measure No. 418, sec. 1.

Article III-3

Second power reserved; referendum.

The second power reserved is the referendum which may be invoked, by petition, against any act or part of an act of the Legislature, except those making appropriations for the expense of the state government or a state institution existing at the time of the passage of such act. Petitions invoking the referendum shall be signed by not less than five percent of the registered voters of the state, distributed as required for initiative petitions, and filed in the office of the Secretary of State within ninety days after the Legislature at which the act sought to be referred was passed shall have adjourned sine die or for more than



ninety days. Each such petition shall set out the title of the act against which the referendum is invoked and, in addition thereto, when only a portion of the act is sought to be referred, the number of the section or sections or portion of sections of the act designating such portion. No more than one act or portion of an act of the Legislature shall be the subject of each referendum petition. When the referendum is thus invoked, the Secretary of State shall refer the same to the electors for approval or rejection at the first general election to be held not less than thirty days after the filing of such petition.

When the referendum is invoked as to any act or part of act, other than emergency acts or those for the immediate preservation of the public peace, health, or safety, by petition signed by not less than ten percent of the registered voters of the state distributed as aforesaid, it shall suspend the taking effect of such act or part of act until the same has been approved by the electors of the state.

Source

- Neb. Const. art. III, sec. 1B (1912);
- Adopted 1912, Laws 1911, c. 223, sec. 2, p. 671;
- Amended 1920, Constitutional Convention, 1919-1920, No. 4;
- Amended 1988, Laws 1988, LR 248, sec. 1;
- Amended 1998, Laws 1997, LR 32CA, sec. 2.

Article III-4

Initiative or referendum; signatures required; veto; election returns; constitutional amendments; non-partisan ballot.

The whole number of votes cast for Governor at the general election next preceding the filing of an initiative or referendum petition shall be the basis on which the number of signatures to such petition shall be computed. The veto power of the Governor shall not extend to measures initiated by or referred to the people. A measure initiated shall become a law or part of the Constitution, as the case may be, when a majority of the votes cast thereon, and not less than thirty-five per cent of the total vote cast at the election at which the same was submitted, are cast in favor thereof, and shall take effect upon proclamation by the Governor which shall be made within ten days after the official canvass of such votes. The vote upon initiative and referendum measures shall be returned and canvassed in the manner prescribed

for the canvass of votes for president. The method of submitting and adopting amendments to the Constitution provided by this section shall be supplementary to the method prescribed in the article of this Constitution, entitled, "Amendments" and the latter shall in no case be construed to conflict herewith. The provisions with respect to the initiative and referendum shall be self-executing, but legislation may be enacted to facilitate their operation. All propositions submitted in pursuance hereof shall be submitted in a non-partisan manner and without any indication or suggestion on the ballot that they have been approved or endorsed by any political party or organization. Only the title or proper descriptive words of measures shall be printed on the ballot and when two or more measures have the same title they shall be numbered consecutively in the order of filing with the Secretary of State and the number shall be followed by the name of the first petitioner on the corresponding petition.

Source

- Neb. Const. art. III, sec. 1C
- Adopted 1912, Laws 1911, c. 223, sec. 2, p. 671;
- Amended 1920, Constitutional Convention, 1919-1920, No. 4

Nebraska Revised Statutes

Sec. 32-1401 Initiative petition; form.

The form of a petition for initiating any law or any amendment to the Constitution of Nebraska shall comply with the requirements of sections [32-628](#) and [32-1403](#) and shall be substantially as follows:

Initiative Petition

The object of this petition is to (Print a concise statement in large type of the legal effect of the filing of the petition and the object sought to be secured by submitting the measure to the voters).

To the Honorable, Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of, respectfully demand that the following proposed law (or amendment to the Constitution of Nebraska as the case may be) shall be referred to the registered voters of the state for their approval or rejection at the general election to be held on



the day of 20...., and each for himself or herself says:

I have personally signed this petition on the date opposite my name;

I am a registered voter of the State of Nebraska and county of and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and

My printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

(Here follow numbered lines for signature, printed name, date of birth, date, street and number or voting precinct, and city, village, or post office address.)

Source

- Laws 1994, LB 76, § 383;
- Laws 1997, LB 460, § 5;
- Laws 2004, LB 813, § 18.

Sec. 32-1402 Referendum petition; form.

The form of a petition for ordering a referendum upon any act or any part of any act passed by the Legislature of the State of Nebraska shall comply with the requirements of sections 32-628 and 32-1403 and shall be substantially as follows:

Referendum Petition

The object of this petition is to (Print a concise statement in large type of the legal effect of the filing of the petition and the object sought to be secured by submitting the measure to the voters).

To the Honorable, Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of, respectfully order that Legislative Bill No. entitled (title of act and, if the petition is against less than the whole act, then set forth here the part or parts on which the referendum is sought), passed by the Legislature of the State of Nebraska at its Session, shall be referred to the registered voters of the state for retention or repeal at the general election to be held on the day of 20...., and each for himself or herself says:

I have personally signed this petition on the date opposite my name;

I am a registered voter of the State of Nebraska and county of and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and

My printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

(Here follow numbered lines for signature, printed name, date, date of birth, street and number or voting precinct, and city, village, or post office address.)

Source

- Laws 1994, LB 76, § 384;
- Laws 1997, LB 460, § 6;
- Laws 2004, LB 813, § 19.

Sec. 32-1403 Initiative or referendum; petition; title and text required; filing.

A full and correct copy of the title and text of the law or amendment to the Constitution of Nebraska to be proposed by an initiative petition or the measure sought to be referred to the registered voters by a referendum petition shall be printed upon each sheet of the petition which contains signatures. The petition may be filed with the Secretary of State in numbered sections for convenience in handling.

Source

- Laws 1994, LB 76, § 385.

Sec. 32-1404 Initiative and referendum petitions; signers and circulators; requirements.

A signer of an initiative and referendum petition shall be a registered voter of the State of Nebraska on or before the date on which the petition is required to be filed with the Secretary of State and shall meet the requirements of section 32-630. A person who circulates initiative and referendum petitions shall comply with the requirements of section 32-629 and subsection (2) of section 32-630 and with the prohibitions contained in subdivisions (3)(a), (d), and (f) of section 32-630.



Source

- Laws 1994, LB 76, § 386;
- Laws 1995, LB 337, § 4;
- Laws 1997, LB 460, § 7;
- Laws 2003, LB 444, § 12;
- Laws 2008, LB39, § 5;
- Laws 2015, LB367, § 2.

Sec. 32-1405 Initiative and referendum petitions; sponsors; filing required; Revisor of Statutes; Secretary of State; duties.

(1) Prior to obtaining any signatures on an initiative or referendum petition, a statement of the object of the petition and the text of the measure shall be filed with the Secretary of State together with a sworn statement containing the names and street addresses of every person, corporation, or association sponsoring the petition.

(2) Upon receipt of the filing, the Secretary of State shall transmit the text of the proposed measure to the Revisor of Statutes. The Revisor of Statutes shall review the proposed measure and suggest changes as to form and draftsmanship. The revisor shall complete the review within ten days after receipt from the Secretary of State. The Secretary of State shall provide the results of the review and suggested changes to the sponsor but shall otherwise keep them confidential for five days after receipt by the sponsor. The Secretary of State shall then maintain the opinion as public information and as a part of the official record of the initiative. The suggested changes may be accepted or rejected by the sponsor.

(3) The Secretary of State shall prepare five camera-ready copies of the petition from the information filed by the sponsor and any changes accepted by the sponsor and shall provide the copies to the sponsor within five days after receipt of the review required in subsection (2) of this section. The sponsor shall print the petitions to be circulated from the forms provided.

(4) The changes made to this section by Laws 1995, LB 337 shall apply to initiative and referendum petitions filed on or after September 9, 1995.

Source

- Laws 1994, LB 76, § 387;

- Laws 1995, LB 337, § 5.

Sec. 32-1405.01 Initiative and referendum measures; informational pamphlet; contents; distribution.

(1) The Secretary of State shall develop and print one informational pamphlet on all initiative and referendum measures to be placed on the ballot. The pamphlet shall include the measure number, the ballot title and text, and the full text of each initiated or referred measure and arguments both for and against each measure.

(2) The Secretary of State shall write the arguments for and against each measure, and each set of arguments shall consist of no more than two hundred fifty words. Information for the arguments may be provided by the sponsors of the measure, opponents to the measure, and other sources.

(3) The Secretary of State shall distribute the pamphlets to election commissioners and county clerks at least six weeks prior to the election. The election commissioners and county clerks shall immediately make the pamphlets available in their offices and in at least three other public locations that will facilitate distribution to the public.

Source

- Laws 1995, LB 337, § 7.

Sec. 32-1405.02 Initiative and referendum measures; public hearing; notice.

After the Secretary of State certifies the initiative and referendum measures for the ballot under subsection (3) of section 32-1411, the Secretary of State shall hold one public hearing in each congressional district for the purpose of allowing public comment on the measures. Notice of each hearing shall be published once in such newspapers as are necessary to provide for general circulation within the congressional district in which the meeting will be held not less than five days prior to the hearing. The hearings shall be held not more than eight weeks prior to the election.

Source

- Laws 1995, LB 337, § 8.

Sec. 32-1406 Initiative and referendum petitions; principal circulator; name and address.

The election commissioner or county clerk shall provide



the name and address of the principal circulator of an initiative or referendum petition upon request. The principal circulator shall inform the election commissioner or county clerk of the name and address to be provided.

Source

- Laws 1994, LB 76, § 388.

Sec. 32-1407 Initiative petition; filing deadline; issue placed on ballot; when; referendum petition; filing deadline.

(1) Initiative petitions shall be filed in the office of the Secretary of State at least four months prior to the general election at which the proposal would be submitted to the voters.

(2) When a copy of the form of any initiative petition is filed with the Secretary of State prior to obtaining signatures, the issue presented by such petition shall be placed before the voters at the next general election occurring at least four months after the date that such copy is filed if the signed petitions are found to be valid and sufficient. All signed initiative petitions shall become invalid on the date of the first general election occurring at least four months after the date on which the copy of the form is filed with the Secretary of State.

(3) Petitions invoking a referendum shall be filed in the office of the Secretary of State within ninety days after the Legislature at which the act sought to be referred was passed has adjourned sine die or has adjourned for more than ninety days.

Source

- Laws 1994, LB 76, § 389.

Sec. 32-1408 Initiative and referendum petitions; Secretary of State; refuse filing; when.

The Secretary of State shall not accept for filing any initiative or referendum petition which interferes with the legislative prerogative contained in the Constitution of Nebraska that the necessary revenue of the state and its governmental subdivisions shall be raised by taxation in the manner as the Legislature may direct.

Source

- Laws 1994, LB 76, § 390.

Sec. 32-1409 Initiative and referendum petitions; signature verification; procedure; certification; Secretary of State; duties.

(1) Upon the receipt of the petitions, the Secretary of State, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the pages of the filed petition. The Secretary of State shall deliver the various pages of the filed petition to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the pages of the petition, the election commissioner or county clerk shall issue to the Secretary of State a written receipt that the pages of the petition are in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall determine if each signer was a registered voter on or before the date on which the petition was required to be filed with the Secretary of State. The election commissioner or county clerk shall compare the signer's signature, printed name, date of birth, street name and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The determination of the election commissioner or county clerk may be rebutted by any credible evidence which the election commissioner or county clerk finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of such petition, the sufficiency of such petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process.

(2) Upon completion of the determination of registration, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the petition page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to any page or pages of the petition and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner



or county clerk shall deliver all pages of the petition and the certifications to the Secretary of State within forty days after the receipt of such pages from the Secretary of State. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. The Secretary of State may grant to the election commissioner or county clerk an additional ten days to return all pages of the petition in extraordinary circumstances.

(3) Upon receipt of the pages of the petition, the Secretary of State shall issue a written receipt indicating the number of pages of the petition that are in his or her custody. When all the petitions and certifications have been received by the Secretary of State, he or she shall strike from the pages of the petition all but the earliest dated signature of any duplicate signatures and such stricken signatures shall not be added to the total number of valid signatures. Not more than twenty signatures on one sheet shall be counted. All signatures secured in a manner contrary to sections [32-1401](#) to [32-1416](#) shall not be counted. Clerical and technical errors in a petition shall be disregarded if the forms prescribed in sections [32-1401](#) to [32-1403](#) are substantially followed. The Secretary of State shall total the valid signatures and determine if constitutional and statutory requirements have been met. The Secretary of State shall immediately serve a copy of such determination by certified or registered mail upon the person filing the initiative or referendum petition. If the petition is found to be valid and sufficient, the Secretary of State shall proceed to place the measure on the general election ballot.

(4) The Secretary of State may adopt and promulgate rules and regulations for the issuance of all necessary forms and procedural instructions to carry out this section.

Source

- Laws 1994, LB 76, § 391;
- Laws 1995, LB 337, § 6;
- Laws 1997, LB 460, § 8;
- [Laws 2007, LB311, § 1.](#)

Sec. 32-1410 Initiative and referendum petitions; ballot title; statement of effect; Attorney General; duties; appeal.

(1) When an initiative petition is filed with the Secretary of State to propose a measure to the registered voters of the state, the Secretary of State shall transmit a copy of

the measure to the Attorney General. Within ten days after receiving the copy, the Attorney General shall provide and return to the Secretary of State a ballot title for such measure. The ballot title shall express the purpose of the measure in not exceeding one hundred words and shall not resemble, so far as to be likely to create confusion, any title previously filed for any measure to be submitted at that election. The Attorney General also shall prepare a statement to be printed in italics immediately preceding the ballot title on the official ballot. Such statement shall in clear and concise language explain the effect of a vote for and against the measure in such language that the statement will not be intentionally an argument or likely to create prejudice, either for or against the measure. The ballot title shall be so worded that those in favor of adopting the measure shall vote For and those opposing the adoption of the measure shall vote Against.

(2) When a referendum petition is filed with the Secretary of State to refer a measure to the registered voters of the state, the Secretary of State shall transmit a copy of the measure to the Attorney General. Within ten days after receiving the copy, the Attorney General shall provide and return to the Secretary of State a ballot title for such measure. The ballot title may be distinct from the legislative title of the measure, shall express the purpose of the measure in not exceeding one hundred words, and shall not resemble, so far as to be likely to create confusion, any title previously filed for any measure to be submitted at that election. The Attorney General also shall prepare a statement to be printed in italics immediately preceding the ballot title on the official ballot. Such statement shall in clear and concise language explain the effect of a vote to retain and a vote to repeal the measure in such language that the statement will not be intentionally an argument or likely to create prejudice, either for retention or for repeal of the measure. The ballot title shall be so worded that those in favor of retaining the measure shall vote Retain and those opposing the measure shall vote Repeal.

(3) Any person who is dissatisfied with the ballot title provided by the Attorney General for any measure may appeal from his or her decision to the district court as provided in section [32-1412](#). The person shall file a petition asking for a different title and setting forth the reasons why the title prepared by the Attorney General is insufficient or unfair. No appeal shall be allowed from the decision of the Attorney General on a ballot title unless the appeal is taken within ten days after the decision is filed. A copy of every such decision shall be served by the Secretary of State or the clerk of the district court upon the person offering or filing such initiative or referendum



petition or appeal. Service of such decision may be by mail or electronic transmission and shall be made forthwith. The district court shall thereupon examine the measure, hear arguments, and in its decision thereon certify to the Secretary of State a ballot title for the measure in accord with the intent of this section by September 1 prior to the statewide general election.

(4) The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

Source

- Laws 1994, LB 76, § 392.

Sec. 32-1411 Initiative and referendum measures; numbering; placement on ballot.

(1) The Secretary of State shall number the measures proposed by initiative or referendum to be voted upon at the next general election. Beginning with the 1986 general election, the first measure shall be numbered 400 and the succeeding measures shall be numbered consecutively 401, 402, 403, 404, 405, and so on.

(2) When any initiative or referendum petition is regularly and legally filed with the Secretary of State, he or she shall, at the next general election, cause to be printed on an official ballot in a nonpartisan manner the ballot title and number of the measure. The ballot titles shall be printed on the official ballot in a random order as determined by the Secretary of State. The statement prepared by the Attorney General shall be printed in italics immediately preceding the ballot title on the official ballot. Measures proposed by initiative petition shall be designated and distinguished on the ballot by the heading Proposed by Initiative Petition. Measures referred by petition shall be designated Referendum ordered by Petition of the People. All initiative and referendum measures shall be submitted in a nonpartisan manner without any indication or suggestion on the ballot that they have been approved or endorsed by any political party or organization.

(3) At the time the Secretary of State furnishes to the election commissioners or county clerks certified copies of the names of the candidates for state and other offices, the Secretary of State shall furnish to each election commissioner or county clerk a certified copy of the ballot titles and numbers of the measures proposed by initiative or referendum to be voted upon at the next general election. The election commissioner or county clerk shall print such ballot titles and numbers upon the official ballot

in the order presented by the Secretary of State and the relative position required by this section.

Source

- Laws 1994, LB 76, § 393;
- Laws 1997, LB 460, § 9.

Sec. 32-1412 Initiative and referendum measures; refusal of Secretary of State to place on ballot; jurisdiction of district court; parties; appeal.

(1) If the Secretary of State refuses to place on the ballot any measure proposed by an initiative petition presented at least four months preceding the date of the election at which the proposed law or constitutional amendment is to be voted upon or a referendum petition presented within ninety days after the Legislature enacting the law to which the petition applies adjourns sine die or for a period longer than ninety days, any resident may apply, within ten days after such refusal, to the district court of Lancaster County for a writ of mandamus. If it is decided by the court that such petition is legally sufficient, the Secretary of State shall order the issue placed upon the ballot at the next general election.

(2) On a showing that an initiative or referendum petition is not legally sufficient, the court, on the application of any resident, may enjoin the Secretary of State and all other officers from certifying or printing on the official ballot for the next general election the ballot title and number of such measure. If a suit is filed against the Secretary of State seeking to enjoin him or her from placing the measure on the official ballot, the person who is the sponsor of record of the petition shall be a necessary party defendant in such suit.

(3) Such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the Court of Appeals within ten days after a decision is rendered. The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

(4) The district court of Lancaster County shall have jurisdiction over all litigation arising under sections [32-1401](#) to [32-1416](#).

Source

- Laws 1994, LB 76, § 394.



Sec. 32-1413 Initiative and referendum measures; publication required; rate.

Immediately preceding any general election at which any initiative or referendum measure is to be submitted to the registered voters, the Secretary of State shall cause to be published in all legal newspapers in the state once each week for three consecutive weeks a true copy of the ballot title and text and the number of each measure to be submitted in the form in which the measure will be printed on the official ballot. The publication shall be at a rate charged as provided in section [33-141](#).

Source

- Laws 1994, LB 76, § 395.

Sec. 32-1414 Initiative and referendum measures; counting, canvassing, and return of votes; proclamation by Governor.

The votes on initiative and referendum measures shall be counted, canvassed, and returned in the same manner as votes for candidates are counted, canvassed, and returned, and the abstract of votes made by the election commissioners or county clerks shall be returned on abstract sheets in the manner provided by section [32-1034](#) for abstracts of votes for state and county officers. The board of state canvassers shall canvass the votes upon each initiative or referendum measure in the same manner as is prescribed in the case of presidential electors. The Governor shall, within ten days of the completion of the canvass, issue his or her proclamation giving the whole number of votes cast in the state approving and rejecting each measure and declaring such measures as are approved by the constitutional number or majority of those voting to be in full force and effect as the law of the State of Nebraska from the date of such proclamation. If two or more measures are approved at such election which are known to conflict with each other or to contain conflicting provisions, the Governor shall also proclaim which is paramount in accordance with section [32-1416](#).

Source

- Laws 1994, LB 76, § 396.

Sec. 32-1415 Initiative or referendum; approved; preservation and printing.

If an initiative or referendum is approved by the voters at the general election, the copies of the initiative or

referendum petition filed with the Secretary of State and a certified copy of the Governor's proclamation declaring the measure approved by the people shall be identified and preserved. The Secretary of State shall cause every measure approved by the people to be printed with the general laws enacted by the next session of the Legislature with the date of the Governor's proclamation declaring the same to have been approved by the people.

Source

- Laws 1994, LB 76, § 397.

Sec. 32-1416 Conflicting laws; adoption; which law controls.

If two or more conflicting laws are approved by the registered voters at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict even though such law may not have received the greater majority of affirmative votes. If two or more conflicting amendments to the Constitution of Nebraska are approved by the registered voters at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict even though such amendment may not have received the greater majority of affirmative votes.

Source

- Laws 1994, LB 76, § 398.

