IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JOHN KUEHN, Plaintiff, vs. ROBERT B. EVNEN, in his official capacity as the Secretary of State of Nebraska; and ANNA WISHART, CRISTA EGGERS, and ADAM MORFELD, Defendants.	**Case No.** **VERIFIED COMPLAINT FOR EXPEDITED INJUNCTIVE RELIEF**

COMES NOW Plaintiff, John Kuehn, and for his causes of action and claims of relief against the Defendants, alleges that Plaintiff is entitled to expedited injunctive relief preventing the Defendant Secretary of State in his official capacity from

A. Certifying two ballot measures for inclusion on the November 5, 2024 general election ballot; *or, in the alternative*,

B. certifying the results of the November 5, 2024 general election as to those measures.

In support of this complaint, Plaintiff states as follows.

PARTIES

1. Plaintiff John Kuehn ("Kuehn") is an individual resident of Nebraska, a registered Nebraska voter, and a citizen opponent of the

initiative petitions to place the measures entitled "Patient Protection Act for Medical Cannibas [*sic*] Legalization" ("Legalization Petition") and "Nebraska Medical Cannabis Regulation Act" ("Regulatory Petition") on the November 5, 2024 general election ballot. Together, the Legalization Petition and the Regulatory Petition are referred to as the "Petitions." The proposed ballot measures are referred to individually as the "Legalization Initiative" and the "Regulatory Initiative;" together, they are called the "Initiatives."

2. Defendant Robert B. Evnen ("Evnen" or "Secretary") is the Secretary of State of Nebraska. He is sued only in his official capacity, and not personally. Evnen is charged with administering the election laws of this State and supervising the conduct of general elections in this State. NEB. REV. STAT. §§ 32-201, 32-202.

3. Defendant Anna Wishart is a sponsor of record of the Petitions challenged herein and, as such, is a necessary party under NEB. REV. STAT. § 32-1412(2). The Sponsor Sworn Statement for each Petition lists Wishart's address as "911 E Street," with no city, state, or zip code. True and correct copies of the Sponsor Sworn Statements for the Legalization Petition and the Regulatory Petition obtained from the Secretary's website are attached hereto as Exhibits A and B, respectively, and incorporated by reference.

4. Defendant Crista Eggers is a sponsor of record of the Petitions challenged herein and, as such, is a necessary party under NEB. REV. STAT. § 32-1412(2). The Sponsor Sworn Statement for each Petition lists Eggers's address as "11013 S. 172nd St. Omaha, NE 68136."

5. Defendant Adam Morfeld is a sponsor of record of the Petitions challenged herein and, as such, is a necessary party under NEB. REV. STAT. § 32-1412(2). The Sponsor Sworn Statement for each Petition lists Morfeld's address as "3637 Holdrege Street, Lincoln, NE 68503."

JURISDICTION AND VENUE

6. Plaintiff, a resident of this State, is authorized and has standing to bring this action under NEB. REV. STAT. § 32-1412(2), because he alleges and expects to prove that the Petitions are not legally sufficient for the reasons set forth herein.

7. This Court has jurisdiction over this action and the relief sought herein under NEB. REV. STAT. §§ 25-1062 through 25-1064.02, especially 25-1063 ("When it appears by the complaint that the plaintiff is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of some act, the commission or continuance of which during the litigation would produce great or irreparable injury to the plaintiff, or when, during the litigation, it appears that the defendant is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the plaintiff's rights respecting the subject of the action and tending to render the judgment ineffectual, a temporary injunction may be granted to restrain such act, subject to the limitations of sections 25-1062 to 25-1080. It may also be granted in any case specially authorized by statute."); NEB. REV. STAT. § 32-1412(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.") and (4) ("The district court of Lancaster County shall have jurisdiction over all litigation arising under sections 32-1401 to 32-1416."); 25-21,149 through 25-21,164 (Declaratory Judgments); and the inherent equitable authority of this Court to enforce the Constitution of the State of Nebraska.

8. Venue is proper in Lancaster County because that is where the Defendant Secretary resides and under NEB. REV. STAT. § 32-1412(4).

GENERAL ALLEGATIONS

Petition Requirements and the Petitions Challenged Here

9. The 2024 general election will be held November 5, 2024.

10. The Petitions seek to place the Initiatives on the November 5, 2024 general election ballot. Generally, the Legalization Initiative would permit the use and possession of cannabis and related paraphernalia in Nebraska under certain circumstances, and the Regulatory Initiative would set out some oversight framework and establish a new state agency with exclusive authority to regulate cannabis in this State.

11. "The Nebraska constitution gives voters the power directly to enact statutes . . . placed on the general-election ballot. To qualify for placement on the ballot, a proposed statute . . . must satisfy two conditions. First, at least seven percent . . . of registered voters must sign a ballot petition. Second, the signatories must 'be so distributed as to include five percent of the registered voters of each of two-fifths of the counties of the state.'" *Eggers v. Evnen*, 48 F.4th 561, 564 (8th Cir. 2022) (citing and quoting NEB. CONST. art. III, § 2).

12. The required number of signatures depends on the number of registered voters in this State on the date the Petition is due to the Secretary. *Duggan v. Beermann*, 245 Neb. 907, 915 (1994). According to the Secretary's 2024 Election Calendar—a copy of which is attached as Exhibit C and incorporated by reference—signed initiative petitions for the November 5, 2024 election were due July 3, 2024.

13. On July 3, 2024, there were 1,235,692 registered voters in Nebraska based on an unofficial tally of signatures on the Regulatory Petition provided by the Secretary's office; a copy of this document is attached as Exhibit D and incorporated by reference. This document also states that the total number of valid signatures needed for each Petition to meet the seven percent threshold is 86,499. *Id.*

14. "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." NEB. REV. STAT. § 32-1405(1). On or about May 18, 2023, the Petitions and sponsor statements were filed with the Secretary. Exs. A, B.

15. On or about July 3, 2024, an unknown number of signatures on the Legalization Petition and Regulatory Petition were filed. According to the Secretary's press release, which is attached hereto as Exhibit E and incorporated by reference, the Petition sponsors estimated that they had gathered 114,367 signatures on the Legalization Petition and 114,596 signatures on the Regulatory Petition.

The Secretary's Duties and Ballot Certification

16. The procedure for ensuring that a petition has the required signatures is spelled out in NEB. REV. STAT. § 32-1409, which provides for the Secretary to transmit petition signatures to local election officials who are to validate the signatures. NEB. REV. STAT. § 32-1409(1). When the signed Petition sheets are returned, the Secretary "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" and "shall total the valid signatures and determine if constitutional and statutory requirements have been met." *Id.* § 32-1409(3).

17. The Election Act leaves the ballot certification deadline to the discretion of the Secretary, provided that he transmits the ballot to each election commissioner or county clerk at least fifty days before the election. NEB. REV. STAT. § 32-801 ("At least fifty days before any statewide primary or general election, the Secretary of State shall transmit in ballot form to each election commissioner or county clerk a certification of the candidates, offices, and issues that appear on the state ballot."); *see also id.* § 32-201 (Secretary's discretion).

18. For the 2024 general election, when computed under NEB. REV. STAT. § 25-2221, the fifty-day deadline for the Secretary to certify the contents of the ballot is Sunday, September 15, 2024. As the latest statutory date of certification is a Sunday, NEB. REV. STAT. § 32-206(3) moves the required date to the next business day. Therefore, the date by which the Secretary is required to certify the ballot is Monday, September 16, 2024. Nevertheless, the Secretary chose to make the ballot certification date Friday, September 13, 2024. Ex. C at 9.

19. On August 30, 2024, the Secretary's Office issued a press release—attached as Exhibit F and incorporated by reference—indicating that the Petitions had each "met the 100% signature threshold required for verification and certification, and subsequently, will qualify for the general election ballot once verification and certification has been completed." The press release quotes the Secretary as stating, "we will have petitions verified before the September 13 deadline to certify the November ballot."

Plaintiff's Efforts to Obtain and Review the Petition Signatures

20. On September 3, 2024—after learning of the Secretary's plans to certify the Initiatives for ballot placement, and to ascertain his grounds for a legal insufficiency challenge under NEB. REV. STAT. § 32-1412(2)—Kuehn, through his counsel Andrew La Grone, requested the signature pages of the Petitions under the Nebraska Public Records Statutes. Copies of the email transmitting this request and the request

itself are attached as Exhibits G and H, respectively, and incorporated by reference.

21. On September 4, 2024, in an email attached as Exhibit I and incorporated by reference, the Secretary partially granted Kuehn's request by allowing the inspection of signature pages from Douglas, Sarpy, and Lancaster Counties. The Secretary indicated that petition pages from the other counties would not be available for inspection until September 11, 2024.

22. Under the Nebraska Public Records Statutes, "[u]pon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request." NEB. REV. STAT. § 84-712(4)(c). Nevertheless, in a September 4, 2024 email attached as Exhibit J and incorporated by reference, the Secretary's office indicated that the signature pages of the Petitions would not be provided by this deadline "due to the significant difficulty or extensiveness of the request."

23. On September 5, in an email attached as Exhibit K and incorporated by reference, Kuehn's counsel proposed a compromise where Kuehn would bear the cost of delivering the signature pages of the Petitions from the counties where they were still under review back to the Secretary's office so that Kuehn could review them within the statutory deadline (and with adequate time to assess the viability of a legal challenge thereto and file the same). The Secretary's office did not respond to this proposal.

24. Kuehn diligently tried to obtain the signature pages of the Petitions as quickly as possible—and with enough time before the certification deadline to file a legal sufficiency challenge if he had the grounds—even appealing the Secretary's rejection of his records request to the Attorney General. A copy of portions of this appeal is attached as Exhibit L and incorporated by reference (with some of the

attachments that were appended to that appeal but which do not relate to the merits of this action omitted here for brevity).

25. Despite Plaintiff's diligent efforts to obtain the signature pages of the Petitions to ascertain the grounds for a legal sufficiency challenge under NEB. REV. STAT. § 32-1412(2), as of September 10, 2024, Plaintiff still had not received the signature pages of the Petitions from 20 counties. As of this September 12, 2024 filing, Plaintiff still has not received the signature pages of the Petitions from 8 counties.

The Secretary's Failure to Produce Signature Pages and Decision to Certify the Ballot on September 13, 2024 Have Denied Plaintiff His Rights Under NEB. REV. STAT. § 32-1412.

26. The Act grants the Plaintiff a right to bring a legal sufficiency challenge to the Legalization Petition and the Regulatory Petition and, if the Plaintiff successfully challenges legal sufficiency, to enjoin placement of the corresponding Initiatives on the ballot. NEB. REV. STAT. § 32-1412(2) ("[o]n 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.").

27. Plaintiff, the Petitions' sponsors, and this State all have the statutory right to appeal a district court's ruling on a challenge brought under § 32-1412(2) within 10 days. NEB. REV. STAT. § 32-1412(4). *See generally State ex rel. Labedz v. Beermann*, 229 Neb. 657, 662 (1988) (stating that "the court will not construe [a prior version of the petition review statute] in a way which would defeat relators' right seasonably to present their objections for judicial review."); *Barkley v. Pool*, 102 Neb. 799 (1918) ("if the time required for determining the validity of the petition in court extends to a date beyond that of the next ensuing election, it must be held that, by necessary implication, it

was not the intent of the Constitution that either those who petition for a referendum or the objectors to the petition should thereby be defeated of their rights, but that the referendum vote should be had as early as it can be had, awaiting the judgment of the court.").

28. Nevertheless, as set forth above, as of this September 12, 2024 filing, we are on the eve of the September 13, 2024 certification deadline set by the Secretary, and Plaintiff has still not received all of the signature pages of the Petitions—in fact, signature pages from 8 counties remain missing. Even the most diligent of challengers cannot review the signature pages of Petitions to assess the basis for a challenge under § 32-1412(2) if he has been denied access to those signature pages.

29. As of this filing, due to the Secretary's conduct, Plaintiff does not know all of the facts about the signature pages of the Petitions but has strong reason to believe there is a valid legal sufficiency challenge thereto, for the reasons set forth below.

COUNT I & FIRST LEGAL INSUFFICIENCY: VIOLATION OF NEB. REV. STAT. § 32-1412 (STATUTORY RIGHT TO CHALLENGE SECRETARY'S CERTIFICATION DECISION AND APPEAL)

30. All allegations above are incorporated herein by reference.

31. The Secretary's discretion to set the election calendar is limited by his duty to ensure that elections are conducted pursuant to the Election Act. *See*, *e.g.*, NEB. REV. STAT. § 32-202(1), (3) ("In addition to any other duties prescribed by law, the Secretary of State shall," among other duties, "Supervise the conduct of primary and general elections in this state" and "Enforce the Election Act[.]").

32. In supervising the conduct of Nebraska's elections and enforcing the Election Act, the Secretary had a duty to preserve the rights granted in NEB. REV. STAT. § 32-1412(2) & (4). Specifically, the

Secretary had a duty to ensure that a diligent challenger has a meaningful opportunity to exercise their right to seek review and appeal under § 32-1412 before the Secretary certifies the contents of the ballot. *See, e.g.*, *Inland Ins. Co. v. Lancaster Cnty. Bd. of Equalization*, 316 Neb. 143, 149 opinion modified on other grounds on denial of reh'g, 316 Neb. 417 (2024) ("When interpreting a statute, effect must be given, if possible, to all the several parts of a statute; no sentence, clause, or word should be rejected as meaningless or superfluous if it can be avoided.").

33. Election officials are due to send early voting ballots to overseas voters by September 20, 2024. Ex. C. at 9.

34. Therefore, the Secretary's intention to certify the ballot on September 13th will violate Plaintiff's statutory right to initiate a legal sufficiency challenge—and to appeal any ruling on such challenge—as provided by § 32-1412. It will further undermine the constitutional interests in ensuring that, "the time required for determining the validity of [a] petition in court" should not cause either petitioners or objectors to "thereby be defeated of their rights," including their right to judicial review. *Barkley v. Pool*, 102 Neb. 799 (1918).

35. Of course, it is incumbent upon a challenger to act with diligence in bringing their challenge early enough to obtain meaningful judicial review. In this case, the Secretary's actions described herein have prevented Plaintiff—who has diligently sought to bring this challenge with all deliberate speed—from doing so in time to have any reasonable chance of obtaining an injunction against the certification of the Initiatives before September 13, 2024.

36. The Nebraska Secretary of State's decision to certify the Initiatives for placement on the November 5, 2024 general election ballot on September 13, 2024, after denying Plaintiff the ability to review the Petition signature pages in time to exercise his rights under NEB. REV. STAT. § 32-1412 is in violation of the law and his duties.

COUNT II & SECOND LEGAL INSUFFICIENCY:
INSUFFICIENT PETITION SIGNATURES IN VIOLATION OF NEB. CONST. ART. III, § 2 & NEB. REV. STAT. § 32-1409

37. All allegations above are incorporated herein by reference.

38. Before the Secretary certifies a measure for inclusion on the ballot, the petition "shall be signed by seven percent of the registered voters of the state," and "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." NEB. CONST. art. III, § 2; *see also* NEB. REV. STAT. § 32-1409(1). When the signed Petition sheets are returned by the counties charged with assisting the Secretary in reviewing them, the Secretary "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" and "shall total the valid signatures and determine if constitutional and statutory requirements have been met." *Id.* § 32-1409(3).

39. Based on the Petition pages produced by the Secretary and reviewed by Plaintiff as of this filing, and as will be shown with evidence presented to the Court (some of which, on information and belief, the Secretary has yet to produce to Plaintiff), numerous signatures on the Legalization Petition are invalid and were unlawfully accepted by the Secretary for reasons including:

39.1 The signer is not a registered voter;

39.2 The signer signed the petition more than once (*e.g.*, duplicate signature);

39.3 The petition was ostensibly circulated after the petition was due;

39.4 The date of birth on the petition does not match the purported signer's voter registration file;

39.5 The signer did not provide any address;

39.6 The voter's signature pre-dates the petition period; and

39.7 There was fraud involved in collecting the signatures, including notary fraud. *See, e.g.*, NEB. CONST. art. III § 2; NEB. REV. STAT. §§ 32-1407(1), 32-628; *State ex rel. Morris v. Marsh*, 183 Neb. 521, 529-531 (1968).

40. Plaintiff is unable to provide the total number of signatures that are invalid for each of these reasons because the signature pages of the Petitions have not been provided. As the signature pages of the Petitions continue to be produced, Plaintiff anticipates that invalidities may be uncovered.

41. Plaintiff has good reason to believe that, after excluding all of the invalid signatures as required by law, there will not be enough valid signatures on the signature pages of the Petitions to satisfy the minimum signature threshold in NEB. CONST. art. III, § 2, and that the Secretary's decision to certify the Initiatives for placement on the November 5, 2024 general election ballot is in violation of the law and his duties because the Petitions are legally insufficient.

COUNT III & THIRD LEGAL INSUFFICIENCY: VIOLATION OF NEB. REV. STAT. § 32-1409(3) (SECRETARY'S DUTY TO STRIKE DUPLICATE SIGNATURES)

42. All allegations above are incorporated herein by reference.

43. Based on his review of the Petitions thus far, on information and belief, the Secretary is failing to "strike from the

pages of the petition all but the earliest dated signature of any duplicate signatures," as required by NEB. REV. STAT. § 32-1409(3).

44. On information and belief, the Secretary's failure to exclude signatures as required by NEB. REV. STAT. § 32-1409(3) has resulted in signatures unlawfully being included in the final tally of signatures used to certify the Petitions for placement on the ballot.

45. After excluding these invalid signatures—either independently or taken together with signatures that are invalid for other reasons— Plaintiff has good reason to believe that there will be an insufficient number of signatures on the signature pages of the Petitions to satisfy the minimum signature threshold in NEB. CONST. art. III, § 2, which would make the Secretary's certification of the Initiatives for inclusion on the ballot a violation of law and of his duties, because the Petitions are legally insufficient.

COUNT IV & FOURTH LEGAL INSUFFICIENCY:
VIOLATION OF NEB. REV. STAT. § 32-1405(1) (FAILURE TO FILE LEGALLY SUFFICIENT SPONSOR STATEMENT)

46. All allegations above are incorporated herein by reference.

47. A petition initially submitted to the Secretary must include a sworn statement containing the names and street addresses of every person . . . sponsoring the petition." NEB. REV. STAT § 32-1405(1).

48. According to the Supreme Court

> Requiring a sworn statement is not an onerous duty. Further, the sworn statement requirement serves several important purposes. First, by providing a sworn statement, the sponsors take responsibility for the petition and expose themselves to potential criminal charges if information is falsified. This requirement prevents fraud in the process. Second, the provision

> allows the public and the media to scrutinize the validity and the completeness of any list of sponsors. Knowing the petition's sponsor could affect the public's view about an initiative petition. For example, a petition sponsored by a large casino might have less appeal to some members of the public than a petition sponsored by local citizens. A sworn list of the sponsors and their street addresses allows the public to make an informed judgment whether to sign the petition. Third, under § 32–1412, the sponsor of an initiative shall be a necessary party to any suit seeking to enjoin the placement of an initiative on the ballot. The failure to provide a sworn statement of the sponsors and street addresses can frustrate the ability to join necessary parties in a lawsuit.

Loontjer v. Robinson, 266 Neb. 902, 911 (2003) (citing NEB. REV. STAT. § 32–1502 (Reissue 1998) (making election falsification under oath Class IV felony)). *See also, e.g.*, *Christensen v. Gale*, 301 Neb. 19, 28 (2018) (sponsor identification "serves the dual purposes of informing the public of (1) who may be held responsible for the petition, exposing themselves to potential criminal charges if information is falsified, and (2) who stands ready to accept responsibility to facilitate the referendum's inclusion on the ballot and defend the referendum process if challenged.").

49. The Petitions violate this standard because they do not include a city, state, or zip code for Defendant Wishart.

50. Because the requirements of § 32-1405 are mandatory and directory (and not simply enforced for substantial compliance) this omission renders the Initiatives legally insufficient. Accordingly, the Secretary's certification of the Initiatives for placement on the ballot violates the law and his duties.

COUNT V & FIFTH LEGAL INSUFFICIENCY:
VIOLATION OF NEB. CONST. art. III, § 2 (SINGLE-SUBJECT RULE)

51. All allegations above are incorporated herein by reference.

52. NEB. CONST. art. III, § 2 requires that "[i]nitiative measures shall contain only one subject."

53. The Legalization Petition violates this single-subject rule by raising subjects in addition to "patient protection [] for medical cannabis legalization," including (1) whether to legalize the possession and use of cannabis by certain individuals; and (2) how to protect authorized individuals who choose to use cannabis from the harmful effects thereof.

54. The Regulatory Petition violates the single subject rule by raising subjects in addition to cannabis regulation, including (1) whether to legalize the possession, manufacture, distribution, delivery, and dispensing of cannabis by certain individuals; (2) whether to create a new executive department of this State, the Nebraska Medical Cannabis Commission; and (3) whether to divest the Legislature of its constitutional authority to legislate by giving that new executive department the exclusive authority to "regulate"—a term that is not defined.

55. Accordingly, the Secretary's decision to certify the Petitions for placement on the November 5, 2024 general election ballot violates the law and his duties, because the Initiative is legally insufficient.

COUNT VI & SIXTH LEGAL INSUFFICIENCY:
VIOLATION OF NEB. CONST. art. II, § 1 (SEPARATION OF POWERS)

56. All allegations above are incorporated herein by reference.

57. Under NEB. CONST. art. II, § 1, "The powers of the government of this state are divided into three distinct departments, the legislative, executive, and judicial, and no person or collection of persons being one of these departments shall exercise any power properly belonging to either of the others except as expressly directed or permitted in this Constitution."

58. By creating a new executive department of this State, the Nebraska Medical Cannabis Commission that is vested with exclusive authority to "regulate"—a term that is not defined—the Petitions violate this constitutional separation of powers by divesting the Legislature of its constitutional duty to legislate.

59. Accordingly, the Secretary's decision to certify the Petitions for placement on the November 5, 2024 general election ballot violates the law and his duties, because the Initiative is legally insufficient.

COUNT VII & SEVENTH LEGAL INSUFFICIENCY:
VIOLATION OF THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION (FEDERAL PREEMPTION)

60. All allegations above are incorporated herein by reference.

61. Under the Supremacy Clause of the United States Constitution, "[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. CONST. Art. VI, cl. 2. Consequently, "a state statute is void to the extent it conflicts with a federal statute - if, for example, compliance with both federal and state regulations is a physical impossibility . . . or where the law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Maryland v. Louisiana*, 451 U.S. 725, 747 (1981) (citations omitted) (cleaned up).

62. The federal Controlled Substances Act (CSA) establishes a comprehensive federal framework to regulate the controlled substances market, and "mak[es] it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA." *Gonzales v. Raich*, 545 U.S. 1, 13 (2005) (citing 21 U.S.C. §§ 841(a)(1), 844(a)).

63. Under the CSA, marijuana (cannabis) is a Schedule I drug, and it is unlawful to manufacture, distribute, dispense, or possess any Schedule I drug for any purpose, medical or otherwise, except as part of a strictly controlled research project. 21 U.S.C. § 812; *see also Gonzales*, 545 U.S. at 14-15.

64. The U.S. Supreme Court has concluded that state laws legalizing the personal, medical use of cannabis are nonetheless preempted by the CSA, and the Attorney General of this State has reached the same conclusion. *See, e.g.*, *Gonzales*, 545 U.S. 1; Neb. Op. Att'y Gen. No. 19010, 2019 WL 3559450 (Aug. 1, 2019).

65. Accordingly, the Secretary's decision to certify the Petitions for placement on the November 5, 2024 general election ballot is in violation of the law and his duties, because the Initiative is legally insufficient.

CONCLUSION

66. The Secretary has acknowledged that, when the Secretary stated that certain ballot measures "'will qualify for the general election ballot once verification and certification has been completed,' . . . it is implicit in this statement that the [measure] met legal sufficiency requirements." Brief of Secretary Enven at 12, *State ex Rel. Latasha Collar*, No. 24-658 (Neb.) (Orig. Action) (filed Sept. 9, 2011) at 12. Without relief from this Court, the Secretary's incorrect and unlawful determination that the Initiatives and Petitions are legally sufficient will stand.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, John Kuehn, requests the following relief:

A. Pursuant to NEB. REV. STAT. § 32-1412(3), that this suit be advanced on the docket and heard and decided by this Court as quickly as possible.

B. That the Court set this matter for hearing as soon as practicable, and that it be given priority over other cases due to the current September 13, 2024 ballot certification deadline for the November 5, 2024 general election and the fact that local authorities will begin sending out ballots as early as September 20, 2024.

C. That the Court issue expedited injunctive relief enjoining the Secretary from certifying the proposed Initiatives for placement on the November 5, 2024 general election ballot or, alternatively, if this suit is resolved too late for the Initiatives to be withheld from the ballot, that the Court issue expedited injunctive relief enjoining the Secretary from certifying the election results on the Initiatives.

D. That the Court enter judgment in favor of the Plaintiff and find that the Initiatives are legally insufficient and invalid as set forth herein.

E. That the Court issue an Order awarding attorney fees and costs to the Plaintiff, pursuant to NEB. REV. STAT. § 25-2165.

JOHN KUEHN, Plaintiff

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/S/ Cameron E. Guenzel, # 24405
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**Application for admission pro hac vice forthcoming*

VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF Kearney)

John Kuehn, being first duly sworn upon oath, deposes and states that John Kuehn is the Plaintiff herein, and Plaintiff has read the foregoing Verified Complaint for Expedited Injunctive Relief and knows the contents thereof; that he has reviewed the contents of the documents referred to therein; and that the facts stated in the foregoing Verified Complaint for Expedited Injunctive Relief are true and correct.

John Kuehn, Plaintiff

Subscribed and sworn to before me this 12 day of September, 2024.

GENERAL NOTARY - State of Nebraska
LISA BETTY
My Comm. Exp. November 3, 2024

Notary Public

001

Nebraska Secretary of State

Petition Sponsor Sworn Statement

RECEIVED
MAY 18 2023
SECRETARY OF STATE

Petition: Patient protection act for medical cannibas legalization
(Brief description of petition for identification purposes)

Sponsor Name: Anna Wishart
Street Address: 911 E Street
Phone Number: (402)314-5688 **Email:** adwishart@gmail.com

Sponsor Name: Crista Eggers
Street Address: 11013 S. 172nd st. Omaha, NE 68136
Phone Number: 402-651-3495 **Email:** Cristaeggers@gmail.com

Sponsor Name: Adam Mofdl
Street Address: 3637 Holdrege Street Lincoln NE 68503
Phone Number: 402-613-0724 **Email:** Adam.Mofdl@gmail.com

Sponsor Name:
Street Address:
Phone Number: **Email:**

(Please attach copies of this page if there are more than four sponsors.)

STATE OF NEBRASKA)
) ss.
COUNTY OF Lancaster)

I hereby swear that this is a complete list containing the names and street addresses of every person, corporation, or association sponsoring the aforementioned petition.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 18th (Day) day of May (Month), 2023 (Year).

Signature of Sponsor

Subscribed in my presence and sworn to before me this 18th (Day) day of May (Month), 2023 (Year)

by Anna Wishart.
*(Printed name of **sponsor** appearing before Notary)*

(SEAL) GENERAL NOTARY - State of Nebraska ANDREW BULLER My Comm. Exp. August 30, 2025

Signature of Notary Public

Exhibit A 001

RECEIVED
JUN 09 2023
SECRETARY OF STATE

Object Statement:

The object of this petition is to enact a statute that makes penalties inapplicable under state and local law for the use, possession, and acquisition of limited quantities of cannabis for medical purposes by a qualified patient with a written recommendation from a health care practitioner, and for a caregiver to assist a qualified patient in these activities.

Proposed Text of Statutory Initiative Petition:

AN ACT relating to cannabis; to adopt the Nebraska Medical Cannabis Patient Protection Act.

Be it enacted by the People of the State of Nebraska:

Section 1. Sections 1 to 3 of this act shall be known and may be cited as the Nebraska Medical Cannabis Patient Protection Act.

Sec. 2. For purposes of the Nebraska Medical Cannabis Patient Protection Act:

(1)(a) Allowable amount of cannabis means up to five ounces of cannabis.

(b) Allowable amount of cannabis does not include the weight of any other ingredient combined with cannabis as part of topical or oral administrations, food, drink, or other preparations;

(2)(a) Cannabis means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

(b) Cannabis includes marijuana, hashish, and concentrated cannabis.

(c) Cannabis does not include hemp, as defined in Section 2-503(13) of the Nebraska Hemp Farming Act, nor does it include the mature stalks of the plant, fiber produced from such stalks, oil or cake made from the seeds of the plant, the sterilized seed of the plant which is incapable of germination, or cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(3) Cannabis accessories means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body;

(4) Caregiver means:

(a) In the case of a qualified patient who is eighteen years of age or older and is not under the protection of a legal guardian, a person who:

(i) Is at least twenty-one years of age; and

(ii) Has been designated by a qualified patient in a signed affidavit;

(b) In the case of a qualified patient who is younger than eighteen years of age or a qualified patient under the protection of a legal guardian:

(i) The legal guardian or parent with authority to make health care decisions of the qualified patient; or

(ii) A person designated in a sworn affidavit by the legal guardian or parent with authority to make health care decisions; or

(c) A health care facility as defined in section 71-413 or a home health agency as defined in section 71-417, if the facility or agency has been designated by a qualified

patient or the legal guardian or parent with authority to make health care decisions of a qualified patient in a sworn affidavit and if the facility or agency has agreed in writing to serve as a caregiver for the qualified patient;

(5) Health care practitioner means a physician, an osteopathic physician, a physician assistant, or a nurse practitioner licensed under the Uniform Credentialing Act or who is licensed in any state and practicing in compliance with the Uniform Credentialing Act;

(6) Qualified patient means:

(a) An individual eighteen years of age or older with a written recommendation from a health care practitioner; or

(b) An individual younger than eighteen years of age with a written recommendation from a health care practitioner and with the written permission of a legal guardian or parent with authority to make health care decisions for the individual; and

(7) Written recommendation means a valid signed and dated declaration from a health care practitioner stating that, in the health care practitioner's professional judgment, the potential benefits of cannabis outweigh the potential harms for the alleviation of a patient's medical condition, its symptoms, or side effects of the condition's treatment. A written recommendation is valid for two years after the date of issuance or for a period of time specified by the health care practitioner on the written recommendation.

Sec. 3. (1) Subject to the requirements of the Nebraska Medical Cannabis Patient Protection Act, it shall not be an offense under state or local law for:

(a) A qualified patient to use, possess, and acquire an allowable amount of cannabis and cannabis accessories for the alleviation of a medical condition, its symptoms, or side effects of the condition's treatment; or

(b) A caregiver to assist a qualified patient with the activities set forth in subdivision (1)(a) of this section by possessing and acquiring an allowable amount of cannabis and cannabis accessories on behalf of the qualified patient and delivering an allowable amount of cannabis and cannabis accessories to the qualified patient.

(2) Conduct protected by this section shall not be subject to the Uniform Controlled Substances Act.

004

INITIATIVE PETITION

For Secretary of State Use Only

The object of this petition is to: (See reverse side for actual text of measure)

Enact a statute that makes penalties inapplicable under state and local law for the use, possession, and acquisition of limited quantities of cannabis for medical purposes by a qualified patient with a written recommendation from a health care practitioner, and for a caregiver to assist a qualified patient in these activities.

To the Honorable Robert Evnen, 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 shall be referred to the registered voters of the state for their approval or rejection at the general election to be held on the 5th day of November 2024, 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.

WARNING TO PETITION SIGNERS-- VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not qualified to sign the petition shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.

	DATE (mm/dd/yy)	SIGNATURE	PRINTED NAME	DATE OF BIRTH	ADDRESS (Street Number & Name, City or Village, Zip Code)
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Not more than twenty signatures on one sheet shall be counted. Nebraska Revised Statute §32-1409

STATE OF NEBRASKA)
) ss
COUNTY OF _____)

_____, (name of circulator) being first duly sworn, deposes and says that he or she is the circulator of this petition containing _____ signatures, that he or she is at least eighteen years of age, that each person whose name appears on the petition personally signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer the object of the petition as printed on the petition before he or she affixed his or her signature to the petition.

_____Circulator's Signature

_____Address

_____City, State, Zip

Subscribed and sworn to before me, a notary public, this _____ day of _____ , 20 ___ at _____, Nebraska.
(City or village of notarial act.)

(Seal)

_____ Notary Public's Signature

SAMPLE

Proposed Statutory Language:

(underscored language indicates added language, ~~strike through~~ indicates language being removed)

A BILL

AN ACT relating to cannabis; to adopt the Nebraska Medical Cannabis Patient Protection Act.

Be it enacted by the People of the State of Nebraska:

Section 1. Sections 1 to 3 of this act shall be known and may be cited as the Nebraska Medical Cannabis Patient Protection Act.

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(b) Allowable amount of cannabis does not include the weight of any other ingredient combined with cannabis as part of topical or oral administrations, food, drink, or other preparations;

(2)(a) Cannabis means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

(b) Cannabis includes marijuana, hashish, and concentrated cannabis.

(c) Cannabis does not include hemp, as defined in Section 2-503(13) of the Nebraska Hemp Farming Act, nor does it include the mature stalks of the plant, fiber produced from such stalks, oil or cake made from the seeds of the plant, the sterilized seed of the plant which is incapable of germination, or cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

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(a) In the case of a qualified patient who is eighteen years of age or older and is not under the protection of a legal guardian, a person who:

(i) Is at least twenty-one years of age; and

(ii) Has been designated by a qualified patient in a signed affidavit;

(b) In the case of a qualified patient who is younger than eighteen years of age or a qualified patient under the protection of a legal guardian:

(i) The legal guardian or parent with authority to make health care decisions of the qualified patient; or

(ii) A person designated in a sworn affidavit by the legal guardian or parent with authority to make health care decisions; or

(c) A health care facility as defined in section 71-413 or a home health agency as defined in section 71-417, if the facility or agency has been designated by a qualified patient or the legal guardian or parent with authority to make health care decisions of a qualified patient in a sworn affidavit and if the facility or agency has agreed in writing to serve as a caregiver for the qualified patient;

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(2) Conduct protected by this section shall not be subject to the Uniform Controlled Substances Act.

SAMPLE

Nebraska Secretary of State

Petition Sponsor Sworn Statement

RECEIVED
MAY 18 2023
SECRETARY OF STATE

Petition: Nebraska Medical Cannabis Regulation Act
(Brief description of petition for identification purposes)

Sponsor Name: Anna Wishart
Street Address: 911 E Street
Phone Number: (402)314-5688 **Email:** adwishart@gmail.com

Sponsor Name: Crista Eggers
Street Address: 11013 S. 172nd St. Omaha, NE 68136
Phone Number: 402-651-3495 **Email:** cristaeggers@gmail.com

Sponsor Name: Adam Mantell
Street Address: 3637 Holdrege Street Lincoln NE 68503
Phone Number: 402-613-0724 **Email:** Adam Mantell@gmail.com

Sponsor Name:
Street Address:
Phone Number: **Email:**

(Please attach copies of this page if there are more than four sponsors.)

STATE OF NEBRASKA)
) ss.
COUNTY OF Lancaster)

I hereby swear that this is a complete list containing the names and street addresses of every person, corporation, or association sponsoring the aforementioned petition.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 18th (Day) day of May (Month), 2023 (Year).

Anna Wishart
Signature of Sponsor

Subscribed in my presence and sworn to before me this 18th (Day) day of May (Month), 2023 (Year)

by Anna Wishart.
*(Printed name of **sponsor** appearing before Notary)*

(SEAL) GENERAL NOTARY - State of Nebraska
ANDREW BULLER
My Comm. Exp. August 30, 2025

Signature of Notary Public

Exhibit B 001

RECEIVED
JUN 09 2023
SECRETARY OF STATE

Object Statement:

The object of this petition is to enact a statute that makes penalties inapplicable under state law for the possession, manufacture, distribution, delivery, and dispensing of cannabis for medical purposes by registered private entities, and establishing a Nebraska Medical Cannabis Commission to regulate such entities.

Proposed Text of Statutory Initiative Petition:

AN ACT relating to cannabis; to adopt the Nebraska Medical Cannabis Regulation Act.

Be it enacted by the People of the State of Nebraska:

Section 1. Sections 1 to 6 of this act shall be known and may be cited as the Nebraska Medical Cannabis Regulation Act.

Sec. 2. For purposes of the Nebraska Medical Cannabis Regulation Act:

(1)(a) Cannabis means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

(b) Cannabis includes marijuana, hashish, and concentrated cannabis.

(c) Cannabis does not include hemp, as defined in Section 2-503(13) of the Nebraska Hemp Farming Act, nor does it include the mature stalks of the plant, fiber produced from such stalks, oil or cake made from the seeds of the plant, the sterilized seed of the plant which is incapable of germination, or cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(2) Cannabis accessories means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body;

(3) Cannabis for medical purposes means cannabis, cannabis products, and cannabis accessories intended for qualified patients pursuant to any law enacted contemporaneously with the adoption of the Nebraska Medical Cannabis Regulation Act or at any time thereafter and which makes penalties inapplicable to the use of cannabis by qualified patients for the alleviation of a medical condition, its symptoms, or side effects of the condition's treatment;

(4) Cannabis products means products that are comprised of cannabis, cannabis concentrate, or cannabis extract, and other ingredients, and that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;

(5) Commission means the Nebraska Medical Cannabis Commission;

(6) Registered cannabis establishment means a private entity registered pursuant to the Nebraska Medical Cannabis Regulation Act that possesses, manufactures, distributes, delivers, or dispenses cannabis for medical purposes; and

(7) Registration means a registration granted by the commission to a private entity that processes, manufactures, distributes, delivers, or dispenses cannabis for medical purposes.

Sec. 3. (1) Subject to the requirements of the Nebraska Medical Cannabis Regulation Act, it shall not be an offense under state law for a registered cannabis establishment, its employees,

and its agents to possess, manufacture, distribute, deliver, and dispense cannabis for medical purposes, provided such conduct complies with applicable rules and regulations adopted and promulgated by theCommission pursuant to the Nebraska Medical Cannabis Regulation Act.

(2) Conduct protected by this section shall not be subject to the Uniform Controlled Substances Act.

Sec. 4. (1) For purposes of providing the necessary registration and regulation of persons that possess, manufacture, distribute, deliver, and dispense cannabis for medical purposes pursuant the Nebraska Medical Cannabis Regulation Act, the Nebraska Medical Cannabis Commission is created.

(2) The commission shall consist of no fewer than three and no more than five members.

(3) The three members of the Nebraska Liquor Control Commission shall be ex officio members of the commission, serving terms and receiving appointment in the same manner as provided in section 53-105.

(4) The Governor may appoint two additional members, subject to confirmation by a majority of the members elected to the Legislature, to serve with the members of the Nebraska Liquor Control Commission as members of the Nebraska Medical Cannabis Commission. The members appointed pursuant to this subsection shall serve six-year terms.

(5) The Governor may reappoint members of the commission, subject to approval by a majority of the members elected to the Legislature.

Sec. 5. The power to regulate all phases of the control of the possession, manufacture, distribution, delivery, and dispensing of cannabis for medical purposes by registered cannabis establishments in the state pursuant to the Nebraska Medical Cannabis Regulation Act is vested exclusively in the commission.

Sec. 6. The commission shall:

(1) No later than July 1, 2025, establish criteria to accept or deny applications for registrations, including adopting, promulgating, and enforcing reasonable rules, regulations, and eligibility standards for such registrations;

(2) No later than October 1, 2025, begin granting registrations to applicants that meet eligibility standards and other requirements established by the commission;

(3) Grant, deny, revoke, and suspend registrations based upon reasonable criteria and procedures established by the commission;

(4) Have the authority to adopt, promulgate, and enforce distinct sets of rules and regulations for different categories of registered cannabis establishments;

(5) Administer oaths or affirmations as necessary to carry out the Nebraska Medical Cannabis Regulation Act;

(6) Issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;

(7) Inspect the operation of any registered cannabis establishment for the purpose of verifying compliance with rules and regulations adopted and promulgated by the commission;

(8) Have the authority to impose, subject to judicial review under the Administrative Procedure Act, administrative fines for each violation of any rules and regulations adopted and promulgated pursuant to the Nebraska Medical Cannabis Regulation Act;

(9) Collect administrative fines imposed under this section and remit the fines to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(10) Establish procedures for the governance of the commission;

(11) Acquire necessary offices, facilities, counsel, and staff; and

(12) Do all things necessary and proper to carry out its powers and duties under the Nebraska Medical Cannabis Regulation Act, including the adoption and promulgation of rules and regulations and such other actions as permitted by the Administrative Procedure Act.

INITIATIVE PETITION

For Secretary of State Use Only

The object of this petition is to: (See reverse side for actual text of measure)

Enact a statute that makes penalties inapplicable under state law for the possession, manufacture, distribution, delivery, and dispensing of cannabis for medical purposes by registered private entities, and establishing a Nebraska Medical Cannabis Commission to regulate such entities.

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We, the undersigned residents of the State of Nebraska and the county of _____, respectfully demand that the following proposed law shall be referred to the registered voters of the state for their approval or rejection at the general election to be held on the 5th day of November 2024, 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.

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Not more than twenty signatures on one sheet shall be counted. Nebraska Revised Statute §32-1409

STATE OF NEBRASKA)
) ss
COUNTY OF _____)

_____, (name of circulator) being first duly sworn, deposes and says that he or she is the circulator of this petition containing _____ signatures, that he or she is at least eighteen years of age, that each person whose name appears on the petition personally signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer the object of the petition as printed on the petition before he or she affixed his or her signature to the petition.

_____Circulator's Signature

_____Address

_____City, State, Zip

Subscribed and sworn to before me, a notary public, this _____ day of _____ , 20 ___ at _____, Nebraska.
(City or village of notarial act.)

(Seal)

_____ Notary Public's Signature

SAMPLE

Proposed Statutory Language:

(underscored language indicates added language, ~~strike through~~ indicates language being removed)

A BILL

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(3) Grant, deny, revoke, and suspend registrations based upon reasonable criteria and procedures established by the commission;

(4) Have the authority to adopt, promulgate, and enforce distinct sets of rules and regulations for different categories of registered cannabis establishments;

(5) Administer oaths or affirmations as necessary to carry out the Nebraska Medical Cannabis Regulation Act;

(6) Issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;

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(8) Have the authority to impose, subject to judicial review under the Administrative Procedure Act, administrative fines for each violation of any rules and regulations adopted and promulgated pursuant to the Nebraska Medical Cannabis Regulation Act;

(9) Collect administrative fines imposed under this section and remit the fines to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(10) Establish procedures for the governance of the commission;

(11) Acquire necessary offices, facilities, counsel, and staff; and

(12) Do all things necessary and proper to carry out its powers and duties under the Nebraska Medical Cannabis Regulation Act, including the adoption and promulgation of rules and regulations and such other actions as permitted by the Administrative Procedure Act.

SAMPLE

2024 Official Election Calendar
State of Nebraska

Primary Election: May 14, 2024 General Election: November 5, 2024		
Dates		**Statutory Language**
2023	**November 2023**	
1-Nov	Secretary of State shall publish the official calendar approved by the Attorney General. §32-206	By November 1
	December 2023	
1-Dec	Last day for the Secretary of State, county clerks, and election commissioners to notify subdivisions of filing deadlines for statewide primary election and to give notice of the certification deadline. §32-404	December 1
	At 5 PM - last day for state political parties to provide national political party rules regarding selection of delegates to the Secretary of State. §32-701	December 1
	Last day to change party affiliation to meet member of party requirement on candidate filings. §32-612	1st Friday in December prior to the statewide primary election
13-Dec	At 5 PM - last day a political subdivision may request the adjustment of election district boundaries. §32-552	At least 5 months prior to an election
15-Dec	Last day an ordinance may be adopted and effective providing for nomination and election on a partisan ballot for city, village and school offices, normally nonpartisan. §32-557	Not less than 60 days prior to the filing deadline
2024	**January 2024**	
1-Jan	First day of an election year a person may simultaneously register to vote and make application for early voting ballots through the use of the Federal Post Card Application or personal letter including the same information as on the FPCA. §32-939	Calendar year
5-Jan	First day a person may file for office to have his or her name placed on the ballot as a candidate for the 2024 election cycle. §32-606	January 5
	At 5 PM - last day for political subdivisions which will hold an election in conjunction with the statewide primary election to certify to the Secretary of State, county clerks or election commissioners the offices to be filled, terms, vacancies, votes to cast, and filing deadlines for each office. §32-404, §32-601	January 5
15-Jan	First day to accept early voting ballot request for the primary election. §32-941	Not more than 120 days before any election
16-Jan	At 5 PM - last day for a new political party to submit petitions with the Secretary of State to qualify for the upcoming primary election. §32-716	January 15
30-Jan	Last day for election official to publish notice received from the January 5 certifications received from political subdivisions pertaining to offices to be filled, terms, vacancies, votes to cast, and filing deadlines. §32-601	At least 15 days prior to the filing deadline for incumbents
	February	
1-Feb	At 5 PM - last day for County Central Committee chairpersons to submit names of poll workers to county clerks (not election commissioners) for appointment. If chairperson does not submit names, the county clerk shall appoint the judges and clerks of elections. §32-230	February 1
13-Feb	Deadline for Secretary of State to determine if sufficient signatures are on the petition for a new party. §32-717	Within 20 business days after political party petitions are submitted
15-Feb	At 5 PM - last day for incumbents (**any current office holder**) to file for office on the primary election ballot. §32-606	February 15

2024 Official Election Calendar
State of Nebraska

Primary Election: May 14, 2024 General Election: November 5, 2024		
Dates		**Statutory Language**
15-Feb	At 5 PM - last day for registered voters of the same political party to file an affidavit/petition to draft an incumbent partisan candidate. §32-611	Filed in the same manner and with the same filing officer as provided for candidate filing forms
20-Feb	At 5 PM - last day for a drafted incumbent partisan candidate to submit a filing form. §32-611	Within 5 days from the date of the filing of the affidavit
22-Feb	At 5 PM - deadline to file an objection to an incumbent candidate filing. §32-624	Within 7 days after the incumbent filing deadline
	March	
1-Mar	At 5 PM - last day for non-incumbents (**new filers**) to file for office for the primary election. §32-606	March 1
	Last day for a candidate, for the primary election, for an elective office specified in §49-1493, to file a statement of financial interests with the Nebraska Accountability and Disclosure Commission for the preceding calendar year. §49-1494	March 1
	At 5 PM - last day for a candidate, whose filing deadlines are February 15 or March 1, to withdraw his or her name and decline to be a candidate. §32-622	March 1
	At 5 PM - last day for a political subdivision to certify a special issue for inclusion on the primary election ballot or to withdraw a previously certified issue from being included on the primary election ballot. §32-559	March 1 (2022 Update - LB843)
	At 5 PM - last day for registered voters of the same political party to file an affidavit/petition to draft a non-incumbent partisan candidate. §32-611	Filed in the same manner and with the same filing officer as provided for candidate filing forms
4-Mar	At 5 PM - last day to file a notarized affidavit and filing fee to pursue a write-in campaign for a county office in the primary election that would have otherwise auto-advanced to the general election. §32-615	March 3
6-Mar	At 5 PM - last day for drafted non-incumbent candidate per §32-611 to decline the nomination by affidavit/petition. §32-622	March 6
	A candidate, for the primary election, for an elective office specified in §49-1493, who fails to file a statement of financial interests with the Nebraska Accountability and Disclosure Commission on or before this date shall not appear on the primary election ballot. §49-1494	Within 5 days after the deadline
	At 5 PM - last day for a drafted non-incumbent partisan candidate to submit a filing form. §32-611	Within 5 days from the date of the filing of the affidavit
8-Mar	At 5 PM - deadline to file an objection to a non-incumbent candidate filing. §32-624	Within 7 days after the non-incumbent filing deadline
11-Mar	At 5 PM - last day for a presidential candidate to file an affidavit with the Secretary of State to remove his or her name from the ballot and withdraw as a presidential candidate. §32-614	March 10
14-Mar	At 5 PM - last day for political party to submit a letter and copy of adopted rule to Secretary of State regarding non-affiliated voters voting in the primary election. §32-912	At least 60 days before the primary election
	Last day to issue and mail special absentee ballots to those registered voters with applications on file specifically requesting a "special absentee ballot." §32-939.02	At least 60 days prior to an election

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14-Mar	At 5 PM - last day for partisan presidential candidates of recognized parties to file for the primary election by filing with the Secretary of State petitions signed by not less than 100 voters registered with the appropriate political party from each congressional district of the state. §32-613	Not less than 60 days before the primary election
22-Mar	Last day for Secretary of State to certify candidates, offices and issues to be placed on the statewide ballot. §32-801	At least 50 days before any statewide primary election
29-Mar	Deadline to have early voting ballots ready and sent to UOCAVA voters with requests on file. §32-939.02	At least 45 days prior to any election
	April	
1 Apr - 30 Jun	Blackout period for special elections. §32-405	April, May, June
1-Apr	Deadline for publishing and posting the Notice of Election. §32-802	No later than 42 days prior to the election
	Deadline for sending the Notice of Election to the affected political subdivisions. §32-802	No later than 42 days prior to the election
	Deadline for county clerks and election commissioners using secure drop-boxes to inform the Secretary of State of each secure drop-box's location. §32-950.01	No later than 42 days prior to any statewide primary election (2022 Update - LB843)
5-Apr	Deadline for county clerks and election commissioners using secure drop-boxes to open each drop-box, which shall remain accessible to voters until the deadline for receipt of ballots. §32-950.01	6th Friday prior to any statewide primary election (2022 Update - LB843)
8-Apr	At 5 PM - deadline for political subdivisions to notify county clerk or election commissioner of corrections to the ballot. §32-802	Within 5 days after mailing the notice
	Deadline to have early voting ballots ready for delivery by mail, and publication of application required after ballots are available. This requirement does not pertain to elections held entirely by mail. §32-808	At least 35 days prior to each statewide primary election
9-Apr	First day to distribute sample ballots to county, city or village not to exceed 10% of their votes cast in the previous election, if publications do not reach the voters generally. §32-804	Not more than 35 days before the election
	At 5 PM - last day ballots may be required to be corrected except as ordered by the court. §32-819(3)	35th day prior to the election
12-Apr	Last day for election commissioners to appoint judges, clerks and inspectors, if needed. §32-221	At least 30 days prior to the statewide primary election
13-Apr	Last day to publish sample ballots in the newspaper for elections done entirely by mail. §32-803	Not less than 30 days before the election
14 Apr - 3 May	First day a satellite registration office may be open for at least 1 day in each incorporated city or village. §32-303 **Note:** *Publish registration sites per Secretary of State.*	Within the 30 days prior to the statewide primary election
15-Apr	First day for early voting - in person - at the county clerk or election commissioner office. Deadline to have early voting ballots ready to be voted in office. §32-942	Not more than 30 days prior to the day of election
18-Apr	Deadline for county clerks and election commissioners using vote counting machines to submit a written plan to the Secretary of State outlining procedures that will be followed on election day. §32-1049	No later than 25 days before the election
Beginning Week of 22-Apr	Publication of proposed constitutional amendments to be placed on the primary election ballot by the Secretary of State required once each week for three weeks before election, if applicable. §49-202	3 weeks before the election

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	Note: *Election officials are required to include any constitutional amendments on the ballot in their sample primary election ballot publication.*	
25-Apr	Last day for county clerks to notify election workers of appointments and fill vacancies of judges and clerks of election, district inspectors and canvassing board members. §32-235, §32-239	At least 15 days prior to any election
	Last day for election commissioners to notify by mail judges, clerks, inspectors, counting board and canvassing board members of appointment and training. §32-228	At least 15 days prior to the *required reporting date* for each statewide primary election
26-Apr	First day clerks and election commissioners may extend their office hours for purpose of voter registration. §32-302	Any of the 7 days immediately preceding deadline for registration
29-Apr	Postmark deadline for mailed-in voter registrations. §32-321	3rd Friday before the next election
	At 6 PM - last day for deputy registrars to register voters for an upcoming election. §32-306	6 p.m. on the 3rd Friday preceding any election
	Prior to midnight, last day voter registrations can be completed online for the person to be registered to vote for the upcoming election. §32-304	Prior to midnight on 3rd Friday before the election
	At close of business, last day voter registrations can be completed at DMV for the person to be registered to vote in an upcoming election. §32-308	3rd Friday preceding any election
	At close of business, last day voter registrations can be completed at or returned to the Departments of Education and Health and Human Services for the person to be registered to vote in an upcoming election. §32-310	3rd Friday preceding any election
	Last day for voter registration form to be <u>delivered</u> to the election office by someone other than the person registering to vote, for the person to be registered to vote in an upcoming election. §32-321, §32-325	3rd Friday preceding an election
	Last day to mail an early voting ballot with a mail-in registration application form to a person not registered to vote. §32-941, §32-945	3rd Friday preceding the election
	First day to publish sample ballots in the newspaper, except for elections done entirely by mail. §32-803	Not more than 15 days before the day of election
30-Apr	Last day to accept a mail-in voter registration with an illegible postmark. §32-321	2nd Tuesday before the next election
	May	
3-May	Deadline to post the sample ballots in the office of the clerk or commissioner. §32-805	Not later than 10 days prior to the election
	At 5 PM - last day for write-in candidate to file notarized affidavit and filing fee with the filing officer. §32-615	No later than the 2nd Friday prior to the election
	At 6 PM - last day for in-person voter registration. §32-302	Ending at 6 p.m. on the 2nd Friday preceding any election
	At 6 PM - last day to receive an application for early voting ballots to be mailed out to a specific address. §32-941	Close of business on the 2nd Friday preceding the election
	At 6 PM - last day to submit a request for a replacement ballot to be mailed. §32-949.01	Received by 6 p.m. on the 2nd Friday preceding the election
	At 6 PM - last day for a voter with a religious objection to being photographed to notify the county clerk or election commissioner to add a notation to the poll book indicating such religious objection. §32-912.01	Not later than 6 p.m. on the 2nd Friday preceding the election (2023 Update - LB514)

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3-May	First day the Early Voting Counting Board can convene to check envelopes with signatures and prepare ballots for counting. §32-1027	Not earlier than the 2nd Friday before the election
8-May	Last day for acknowledgments to be sent to persons registered by deputy registrars. §32-306	At least 5 days prior to the next election
	Deadline for any political party in Nebraska, a candidate for election in Nebraska not affiliated with a political party, an organization of persons interested in a question on the ballot, or a nonpartisan organization interested in Nebraska's elections and the elective process intending to appoint poll watchers to provide written notification of the list of appointed poll watchers and a list of precincts that the poll watchers intend to observe to the county clerk or election commissioner where the poll watchers will be active. §32-961	Close of business on the Wednesday prior to election day
	Deadline for any national or international election monitoring organization intending to appoint poll watchers to provide written notification of the list of appointed poll watchers and a list of the counties and precincts to be observed to the Secretary of State. §32-961	Close of business on the Wednesday prior to election day
10-May	Last day to distribute sample ballots to county, city or village not to exceed 10% of their votes cast in the previous election, if publications do not reach the voters generally. §32-804	Not less than 3 days before the election
11-May	Last day to publish sample ballots in the newspaper, except for elections done entirely by mail. §32-803	Not less than 2 days before the day of election
13-May	Last day for early voting - in person - at the county clerk or election commissioner office. §32-942	
	At noon - registration deadline for former federal employees. §32-940	The day before the election
	First day the Early Voting Counting Board may convene to begin counting early voting ballots. §32-1027(6)	No earlier than 24 hours prior to the opening of the polls
14-May	**Statewide Primary Election Day. §32-401**	1st Tuesday after the 2nd Monday in May in even-numbered years
	8 AM CT (7 AM MT) - Polls open. §32-908	8 a.m. Central Time; 7 a.m. Mountain Time
	1 PM - Deadline to post notice in a conspicuous place in the county election office of the day and hour the county canvassing board will convene. The board can convene no earlier than 24 hours after the notice is posted. §32-1031	Prior to 1 PM on election day
	7 PM CT (6 PM MT) - Deadline for agent to pick up early voting ballot. §32-943	Before 1 hour prior to the closing of the polls
	8 PM CT (7 PM MT) - Deadline for return of voter registration form with an early voting ballot - in person. §32-941	Not later than the closing of the polls
	8 PM CT (7 PM MT) - Deadline for obtaining a replacement ballot in person. §32-949.01, §32-908	8 p.m. Central Time; 7 p.m. Mountain Time
	8 PM CT (7 PM MT) - Deadline for return of early voting ballot - in person. §32-950	Not later than the hour established for the closing of the polls
	8 PM CT (7 PM MT) - Deadline for an early voting ballot received by mail to be in the possession of the clerk or commissioner. §32-950	Not later than the hour established for the closing of the polls
	8 PM CT (7 PM MT) - Polls close. §32-908	8 p.m. Central Time; 7 p.m. Mountain Time

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Dates		**Statutory Language**
14-May	8 PM CT (7 PM MT) - The first time any returns or partial returns may be released. §32-1009	May be released after the polls close
	Upon the completion of early voting ballot counting and verification for provisional ballot counting, and no earlier than 24 hours after the county canvassing board meeting notice is posted, the canvassing board may convene. §32-1031, §32-1002	No earlier than 24 hours after the notice is posted
15 May - 5 Nov	No changes shall be made to precinct boundaries or polling places without approval from the Secretary of State. §32-903, §32-904	Shall not be changed between the statewide primary and general elections
5 days after the canvassing board or Board of State Canvassers concludes	At 5 PM - deadline for losing candidate to request a recount. §32-1121	Not later than the 5th day after the canvassing board or Board of State Canvassers concludes
21-May	Deadline to present valid photographic identification to the election commissioner or county clerk by a voter without a reasonable impediment who failed to present valid photographic identification at the time of voting. §32-1002.01	On or before the Tuesday after the election (2023 Update - LB514)
23-May	Deadline for verification and notification to the state system of ballot status for provisional ballots and provisional voter identification verification ballots. §32-1002, §32-1002.01	Within 7 business days after the election (2023 Update - LB514)
	June	
3-Jun	Abstract of votes due in the office of the Secretary of State. §32-1035	3rd Monday after the day of election
20 days after votes officially canvassed	Last day a notice can be filed with a person whose election is being contested. §32-1109	Within 20 days after the votes have been officially canvassed
4-Jun	At 5 PM - last day a political subdivision may request the adjustment of election district boundaries for offices not in the primary election. §32-552	At least 5 months prior to an election
10-Jun	Board of State Canvassers meets to certify the election results. §32-1037	4th Monday after each statewide primary election
12-Jun	At 9 AM - the time to conduct recounts for candidates who filed with the Secretary of State. §32-1119	5th Wednesday after the election
13-Jun	Date by which to have Primary Election Voter History completed. §32-330	30 days after the election
	Last day the copy of a petition may be served on the person whose election is being contested when contesting the election of Constitutional Officers, and members of the Public Service Commission, Board of Regents and State Board of Education. §32-1102	At least 10 days before 40 days after the election
	Last day the copy of a petition may be served on the Secretary of State contesting the election of constitutional amendment or statutes by initiative or referendum. §32-1108	At least 10 days before 40 days after the election
17-Jun	At 5 PM - deadline for governing boards of reclamation districts, county weed districts, villages, counties under township organization, public power districts grossing annual revenues of less than 40 million dollars, and educational service units to certify to the Secretary of State, county clerks or election commissioners of offices to be filled, terms, vacancies, number of votes to be cast, and filing deadlines for each office. §32-404, §32-601	June 15

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Dates		**Statutory Language**
24-Jun	Last day for petition to be filed in Lancaster County District Court contesting the election of Constitutional Officers, and members of the Public Service Commission, Board of Regents and State Board of Education. §32-1102	Within 40 days after the election
	Last day for petition to be filed in Lancaster County District Court contesting the election of constitutional amendment or statutes by initiative or referendum. §32-1108	Within 40 days after such election
	Last day to deliver certificates of nomination or certificates of election. §32-1033	6th Monday after the election (2022 Update - LB843)
29-Jun	Last day for election official to publish notice received from the June 17 certifications received from political subdivisions pertaining to offices to be filled, terms, vacancies, votes to cast, and filing deadlines. §32-601	At least 15 days prior to the filing deadline for incumbents
	July	
3-Jul	At 5 PM - deadline for filing initiative petitions. §32-1407	At least 4 months prior to the general election
	Last day for the Executive Board of the Legislative Council to submit a statement in clear, concise language explaining the effect of a vote for and a vote against proposed constitutional amendments, if applicable. §49-202.01	At least 4 months prior to the general election
8-Jul	First day to accept early voting ballot request for the general election. §32-941	Not more than 120 days before any election
8 weeks after canvass of votes	Precinct results for US House of Representatives, Legislature, Public Service Commission & Constitutional Officers due in the office of the Secretary of State. §32-1036	Within 8 weeks after the canvass of votes
15-Jul	At 5 PM - last day for incumbents (**any current office holder**) not on the primary election ballot to file. §32-606 *Candidates for public power district board of directors (grossing less than 40 million dollars); reclamation district board of directors; educational service unit board; county weed district board; township officers; and village board of trustees.*	July 15
	Last day for an incumbent candidate, for the general election, for an elective office specified in §49-1493, to file a statement of financial interests with the Nebraska Accountability and Disclosure Commission for the preceding calendar year. §49-1494	On or before the filing deadline for elective office
	At 5 PM - last day for a new political party to submit petitions with the Secretary of State to qualify for the upcoming general election. §32-716	July 15
22-Jul	An incumbent candidate, for the general election, for an elective office specified in §49-1493, who fails to file a statement of financial interests with the Nebraska Accountability and Disclosure Commission on or before this date shall not appear on the general election ballot. §49-1494	Within 5 days after the deadline
	At 5 PM - last day for an objection to an incumbent candidate filing. §32-624	Within 7 days after the incumbent filing deadline
	August	
1-Aug	Last day for non-incumbents (**new filers**) to file for office. §32-606 *Candidates for public power district board of directors (grossing less than 40 million dollars); reclamation district board of directors; educational service unit board; county weed district board; township officers; and village board of trustees.*	August 1

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Dates		**Statutory Language**
1-Aug	Last day for a non-incumbent candidate, for the general election, for an elective office specified in §49-1493, to file a statement of financial interests with the Nebraska Accountability and Disclosure Commission for the preceding calendar year. §49-1494	On or before the filing deadline for elective office
	At 5 PM - last day for nonpartisan presidential candidates to file for the general election by filing with the Secretary of State an application and a petition signed by not less than 2,500 registered voters. §32-620	August 1
	Filing deadline for judicial officeholders to place their name on the general election ballot for retention. §24-814	August 1
	At 5 PM - last day for a candidate, whose filing deadlines are July 15 or August 1, to withdraw his or her name and decline to be a candidate. §32-622	August 1
	At 5 PM - last day for a candidate nominated at the primary election, or nominated by a political party convention or committee, to decline the nomination. §32-623	August 1
6-Aug	A non-incumbent candidate, for the general election, for an elective office specified in §49-1493, who fails to file a statement of financial interests with the Nebraska Accountability and Disclosure Commission on or before this date shall not appear on the general election ballot. §49-1494	Within 5 days after the deadline
8-Aug	At 5 PM - deadline to file an objection to a non-incumbent candidate filing. §32-624	Within 7 days after the non-incumbent filing deadline
12-Aug	Deadline for Secretary of State to determine if sufficient signatures were turned in to form a new party. §32-717	Within 20 business days after political party petitions are submitted
26-Aug	At 5 PM - last day for submission of petitions to change cities, villages, counties, or school districts from district elections to at large; or from at large to district elections. §32-554	Not less than 70 days prior to the date of the general election
	September	
1 Sept - 31 Dec	Blackout period for special elections, except to approve a property tax levy or exceed a property tax levy limitation in the month of September. §32-405	September, October, November, December
1-Sep	Last day for each political party to hold a state convention. §32-710	September 1
3-Sep	At 5 PM - last day for a political subdivision to certify a special issue for inclusion on the general election ballot or to withdraw a previously certified issue from being included on the general election ballot. §32-559	September 1 (2022 Update - LB843)
	At 5 PM - deadline for candidate of a new political party to file for general election ballot status and file a petition of nomination to be on the general election ballot. §32-621	September 1
	At 5 PM - last day to file a petition for nomination to fill a vacancy for a nonpartisan office. §32-625	September 1
	At 5 PM - last day for filing for office by petition. §32-617	September 1
	Note: *Filing officer has 3 days after petition has been verified to notify candidate. Candidate has 5 days after receiving notification to file acceptance of nomination. §32-617(2)*	
5-Sep	Last day to issue and mail special absentee ballots to those registered voters with applications on file specifically requesting a "special absentee ballot." §32-939.02	At least 60 days prior to an election

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9-Sep	At 5 PM - last day for national political party convention officers to certify to the Secretary of State which candidates for President and Vice President of the United States are to be voted upon. §32-712	September 8
13-Sep	Last day for Secretary of State to certify candidates, offices and issues to be placed on the statewide ballot. §32-801	At least 50 days before any statewide general election
20-Sep	Deadline to have early voting ballots ready and sent to UOCAVA voters with requests on file. §32-939.02	At least 45 days prior to any election
23-Sep	Deadline for publishing and posting the Notice of Election. §32-802	No later than 42 days prior to the election
	Deadline for sending the Notice of Election to the affected political subdivisions. §32-802	No later than 42 days prior to the election
	Deadline for county clerks and election commissioners using secure drop-boxes to inform the Secretary of State of each secure drop-box's location. §32-950.01	No later than 42 days prior to any statewide general election (2022 Update - LB843)
27-Sep	Deadline for county clerks and election commissioners using secure drop-boxes to open each drop-box, which shall remain accessible to voters until the deadline for receipt of ballots. §32-950.01	6th Friday prior to any statewide general election (2022 Update - LB843)
30-Sep	At 5 PM - deadline for political subdivisions to notify county clerk or election commissioner of corrections to the ballot. §32-802	Within 5 days after mailing the notice
	Deadline to have early voting ballots ready for delivery by mail, and publication of application required after ballots are available. This requirement does not pertain to elections held entirely by mail. §32-808	At least 35 days prior to each statewide general election
	October	
1-Oct	First day to distribute sample ballots to county, city or village not to exceed 10% of their votes cast in the previous election, if publications do not reach the voters generally. §32-804	Not more than 35 days before the election
	At 5 PM - last day ballots may be required to be corrected except as ordered by the court. §32-819(3)	35th day prior to the election
4-Oct	Last day for election commissioners to appoint judges, clerks and inspectors, if needed. §32-221	At least 30 days prior to the election
5-Oct	Last day to publish sample ballots in the newspaper for elections done entirely by mail. §32-803	Not less than 30 days before the election
6 Oct - 25 Oct	First day a satellite registration office may be open for at least 1 day in each incorporated city of village. §32-303 **Note:** *Publish registration sites per Secretary of State*	Within the 30 days prior to the statewide general election
7-Oct	First day for early voting - in person - at the county clerk or election commissioner office. Deadline to have early voting ballots ready to be voted in office. §32-942	Not more than 30 days prior to the day of election
	New or Former Resident Presidential ballots available to former residents. §32-933	Thirty days prior to the election
10-Oct	Deadline for clerks and commissioners using vote counting machines to submit a written plan to the Secretary of State outlining procedures that will be followed on election day. §32-1049	No later than 25 days before the election
Beginning Week of 14 Oct	Publication of proposed constitutional amendments to be placed on the general election ballot by the Secretary of State required once each week for three weeks before election, if applicable. §49-202	3 weeks before the election

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	Note: *Election officials are required to include any constitutional amendments on the ballot in their sample general election ballot publication.*	
18-Oct	Last day for county clerks to notify election workers of appointments and fill vacancies of judges and clerks of election, district inspectors and canvassing board members. §32-235, §32-239	At least 15 days prior to any election
	Last day for election commissioners to notify by mail judges, clerks, inspectors, counting board and canvassing board members of appointment and training. §32-228	At least 15 days prior to the *required reporting date* for each statewide general election
	First day clerks and commissioners may extend their office hours for purpose of voter registration. §32-302	Any of the 7 days immediately preceding deadline for registration
	Postmark deadline for mailed-in voter registrations. §32-321	3rd Friday before the next election
	At 6 PM- last day for deputy registrars to register voters for an upcoming election. §32-306	6 p.m. on the 3rd Friday preceding any election
	Prior to midnight, last day voter registrations can be completed online for the person to be registered to vote for the upcoming election. §32-304	Prior to midnight on 3rd Friday before the election
	At close of business, last day voter registrations can be completed at DMV for the person to be registered to vote in an upcoming election. §32-308	3rd Friday preceding any election
	At close of business, last day voter registrations can be completed at or returned to the Departments of Education and Health and Human Services for the person to be registered to vote in an upcoming election. §32-310	3rd Friday preceding any election
	Last day for voter registration form to be <u>delivered</u> to the election office by someone other than the person registering to vote, for the person to be registered to vote in an upcoming election. §32-321, §32-325	3rd Friday preceding an election
	Last day to mail an early voting ballot with a mail-in registration application form to a person not registered to vote. §32-941, §32-945	3rd Friday preceding the election
21-Oct	First day to publish sample ballots in the newspaper, except for elections done entirely by mail. §32-803	Not more than 15 days before the day of election
22-Oct	Last day to accept a mail-in voter registration with an illegible postmark. §32-321	2nd Tuesday before the next election
25-Oct	At 6 PM - last day to submit a request for a replacement ballot to be mailed. §32-949.01	Close of business on the 2nd Friday preceding the election
	Deadline to post the sample ballots in the office of the clerk or commissioner. §32-805	Not later than 10 days prior to the election
	At 5 PM - last day for write-in candidate to file notarized affidavit and filing fee with the filing officer. §32-615	No later than the 2nd Friday prior to the election
	At 6 PM - last day for in person voter registration. §32-302	Ending at 6 p.m. on the 2nd Friday preceding any election
	At 6 PM - last day to receive an application for early voting ballots to be mailed out to a specific address. §32-941	Close of business on the 2nd Friday preceding the election
	At 6 PM - last day for a voter with a religious objection to being photographed to notify the county clerk or election commissioner to add a notation to the poll book indicating such religious objection. §32-912.01	Not later than 6 p.m. on the 2nd Friday preceding the election (2023 Update - LB514)
	First day the Early Voting Counting Board can convene to check envelopes with signatures and prepare ballots for counting. §32-1027	Not earlier than the 2nd Friday before the election

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28-Oct	New or Former Resident Presidential ballots available to new residents. §32-933	After voter registration closes
30-Oct	Last day for acknowledgments to be sent to persons registered by deputy registrars. §32-306	At least 5 days prior to the next election
	Deadline for any political party in Nebraska, a candidate for election in Nebraska not affiliated with a political party, an organization of persons interested in a question on the ballot, or a nonpartisan organization interested in Nebraska's elections and the elective process intending to appoint poll watchers to provide written notification of the list of appointed poll watchers and a list of precincts that the poll watchers intend to observe to the county clerk or election commissioner where the poll watchers will be active. §32-961	Close of business on the Wednesday prior to election day
	Deadline for any national or international election monitoring organization intending to appoint poll watchers to provide written notification of the list of appointed poll watchers and a list of the counties and precincts to be observed to the Secretary of State. §32-961	Close of business on the Wednesday prior to election day
	November	
1-Nov	Last day to distribute sample ballots to county, city or village not to exceed 10% of their votes cast in the previous election, if publications do not reach the voters generally. §32-804	Not less than 3 days before the election
2-Nov	Last day to publish sample ballots in the newspaper, except for elections done entirely by mail. §32-803	Not less than 2 days before the day of election
4-Nov	Last day for early voting - in person - at the county clerk or election commissioner office. §32-942	
	At noon - registration deadline for former federal employees. §32-940	The day before the election
	First day the Early Voting Counting Board may convene to begin counting early voting ballots. §32-1027(6)	No earlier than 24 hours prior to the opening of the polls
5-Nov	**Statewide General Election Day. §32-403**	1st Tuesday following the 1st Monday in November in each even-numbered year
	8 AM CT (7 AM MT) - Polls open. §32-908	8 a.m. Central Time; 7 a.m. Mountain Time
	1 PM - Deadline to post notice in a conspicuous place in the county election office of the day and hour the county canvassing board will convene. The board can convene no earlier than 24 hours after the notice is posted. §32-1031	Prior to 1 PM on election day
	7 PM CT (6 PM MT) - Deadline for agent to pick up early voting ballot. §32-943	Before 1 hour prior to the closing of the polls
	8 PM CT (7 PM MT) - Deadline for return of voter registration form with an early voting ballot - in person. §32-941	Not later than the closing of the polls
	8 PM CT (7 PM MT) - Deadline for obtaining a replacement ballot in person. §32-949.01, §32-908	By 8 p.m. Central Time; 7 p.m. Mountain Time
	8 PM CT (7 PM MT) - Deadline for return of early voting ballot - in person. §32-950	Not later than the hour established for the closing of the polls
	8 PM CT (7 PM MT) - Deadline for an early voting ballot received by mail to be in the possession of the clerk or commissioner. §32-950	Not later than the hour established for the closing of the polls
	8 PM CT (7 PM MT) - Deadline for new or former resident ballots to be returned. §32-933	Close of the polls on election day

2024 Official Election Calendar
State of Nebraska

Primary Election: May 14, 2024 General Election: November 5, 2024 Dates		Statutory Language
5-Nov	8 PM CT (7 PM MT) - Polls close. §32-908	8 p.m. Central Time; 7 p.m. Mountain Time
	8 PM CT (7 PM MT) - The first time any returns or partial returns may be released. §32-1009	May be released after the polls close
	Upon the completion of early voting ballot counting and verification for provisional ballot counting, and no earlier than 24 hours after the county canvassing board meeting notice is posted, the canvassing board may convene. §32-1031, §32-1002	No earlier than 24 hours after the notice is posted
5 days after the canvassing board or Board of State Canvassers concludes	At 5 PM - deadline for losing candidate to request a recount. §32-1121	Not later than the 5th day after the canvassing board or Board of State Canvassers concludes
12-Nov	Deadline to present valid photographic identification to the election commissioner or county clerk by a voter without a reasonable impediment who failed to present valid photographic identification at the time of voting. §32-1002.01	On or before the Tuesday after the election (2023 Update - LB514)
15-Nov	Deadline for verification and notification to the state system of ballot status for provisional ballots and provisional voter identification verification ballots. §32-1002, §32-1002.01	Within 7 business days after the election (2023 Update - LB514)
25-Nov	Abstract of votes due in the office of the Secretary of State. §32-1035	3rd Monday after the day of election
20 days after votes officially canvassed	Last day a notice can be filed with a person whose election is being contested. §32-1109	Within 20 days after the votes have been officially canvassed
	December	
2-Dec	Board of State Canvassers meets to certify the election results. §32-1037	4th Monday after each statewide general election
4-Dec	At 9 AM - the time to conduct recounts for candidates who filed with the Secretary of State. §32-1119	5th Wednesday after the election
5-Dec	Date by which to have General Election Voter History completed. §32-330	30 days after the election
	Last day the copy of a petition may be served on the person whose election is being contested when contesting the election of Constitutional Officers, and members of the Public Service Commission, Board of Regents and State Board of Education. §32-1102	At least 10 days before 40 days after the election
	Last day the copy of a petition may be served on the Secretary of State contesting the election of constitutional amendment or statutes by initiative or referendum. §32-1108	At least 10 days before 40 days after the election
16-Dec	Last day for petition to be filed in Lancaster County District Court contesting the election of Constitutional Officers, and members of the Public Service Commission, Board of Regents and State Board of Education. §32-1102	Within 40 days after the election
	Last day for petition to be filed in Lancaster County District Court contesting the election of constitutional amendment or statutes by initiative or referendum. §32-1108	Within 40 days after such election
	Last day to deliver certificates of nomination or certificates of election. §32-1033	6th Monday after the election (2022 Update - LB843)

2024 Official Election Calendar
State of Nebraska

Primary Election: May 14, 2024 General Election: November 5, 2024		
Dates		**Statutory Language**
8 weeks after canvass of votes	Precinct results for US House of Representatives, Legislature, Public Service Commission & Constitutional Officers due in the office of the Secretary of State. §32-1036	Within 8 weeks after the canvass of votes

Nebraska Secretary of State

Nebraska Medical Cannabis Regulation Inititative Petition unofficial interim results that have not been certified

Total # of Registered Voters (July 3, 2024):	**1,235,692**
Total # of Signatures Needed (7%)[1]:	**86,499**
Total # of Accepted Signatures:	**89,841**

County	# of Accepted Signatures	Registered Voters	5% of the Registered Voters	Made 5%?
Adams	1,277	19,106	956	Yes
Antelope	63	4,345	218	-
Arthur	28	331	17	Yes
Banner	5	526	27	-
Blaine	33	360	18	Yes
Boone	259	3,642	183	Yes
Box Butte	121	6,827	342	-
Boyd	6	1,273	64	-
Brown	15	2,044	103	-
Buffalo	826	30,856	1,543	-
Burt	410	4,835	242	Yes
Butler	429	5,645	283	Yes
Cass	1,612	19,260	963	Yes
Cedar	307	5,681	285	Yes
Chase	33	2,388	120	-
Cherry	9	3,674	184	-
Cheyenne	77	6,284	315	-
Clay	307	4,114	206	Yes
Colfax	315	5,017	251	Yes
Cuming	413	5,751	288	Yes
Custer	86	7,753	388	-
Dakota	202	10,274	514	-
Dawes	105	4,988	250	-
Dawson	251	12,948	648	-
Deuel	9	1,383	70	-
Dixon	198	3,593	180	Yes
Dodge	1,765	22,109	1,106	Yes
Douglas	36,416	358,046	17,903	Yes
Dundy	7	1,220	61	
Fillmore	302	3,945	198	Yes
Franklin	109	2,067	104	Yes
Frontier	17	1,824	92	-
Furnas	199	3,344	168	Yes
Gage	1,085	14,411	721	Yes
Garden	3	1,326	67	-
Garfield	89	1,285	65	Yes
Gosper	119	1,403	71	Yes
Grant	17	433	22	
Greeley	134	1,578	79	Yes
Hall	1,766	32,926	1,647	Yes
Hamilton	450	6,840	342	Yes

County	# of Accepted Signatures	Registered Voters	5% of the Registered Voters	Made 5%?
Harlan	160	2,338	117	Yes
Hayes	6	631	32	-
Hitchcock	32	1,861	94	-
Holt	48	6,989	350	-
Hooker	29	538	27	Yes
Howard	325	4,589	230	Yes
Jefferson	387	4,741	238	Yes
Johnson	202	2,799	140	Yes
Kearney	82	4,551	228	-
Keith	51	5,635	282	-
Keya Paha	1	622	32	-
Kimball	5	2,582	130	-
Knox	165	5,463	274	-
Lancaster	17,077	202,318	10,116	Yes
Lincoln	417	23,311	1,166	-
Logan	44	545	28	Yes
Loup	33	517	26	Yes
Madison	995	21,961	1,099	-
McPherson	2	336	17	-
Merrick	445	5,188	260	Yes
Morrill	21	2,927	147	-
Nance	174	2,351	118	Yes
Nemaha	333	4,393	220	Yes
Nuckolls	232	3,098	155	Yes
Otoe	750	10,727	537	Yes
Pawnee	114	1,764	89	Yes
Perkins	5	1,838	92	-
Phelps	117	6,169	309	-
Pierce	80	4,922	247	-
Platte	563	20,473	1,024	-
Polk	259	3,587	180	Yes
Red Willow	351	6,991	350	Yes
Richardson	339	5,141	258	Yes
Rock	3	1,064	54	-
Saline	579	7,838	392	Yes
Sarpy	9,616	125,662	6,284	Yes
Saunders	1,126	16,325	817	Yes
Scotts Bluff	716	22,679	1,134	-
Seward	546	11,362	569	-
Sheridan	15	3,331	167	-
Sherman	133	2,069	104	Yes
Sioux	4	847	43	-
Stanton	96	3,699	185	-
Thayer	245	3,520	176	Yes
Thomas	31	496	25	Yes
Thurston	284	3,776	189	Yes
Valley	203	2,969	149	Yes
Washington	1,696	15,226	762	Yes
Wayne	407	5,153	258	Yes

County	# of Accepted Signatures	Registered Voters	5% of the Registered Voters	Made 5%?
Webster	176	2,276	114	Yes
Wheeler	37	581	30	Yes
York	215	9,268	464	-
Total	**89,841**	**1,235,692**		**52**

1. The Nebraska State Constitution Article III Section 2 reserves the power for the people to enact laws and constitutional amendments adopted by the people independently of the Legislature using the petition process. If the petition is for the enactment of a law, it shall be signed by 7% of the registered voters of the state. Registered voters signing such petition shall be so distributed as to include 5% of the registered voters of each of two-fifths of the counties (38 out of 93) of the state.

STATE OF NEBRASKA

ROBERT B. EVNEN
SECRETARY OF STATE

For immediate release:
July 3, 2024

Media contact:
Jackie Ourada
(402) 471-4086

Five initiative petitions returned for signature verification for the November general election ballot

The Nebraska Secretary of State's Office received five initiative petitions for signature verification. The deadline to return completed initiative petitions for signature verification was July 3, 2024. Below is a list of initiative petitions filed and returned to the Nebraska Secretary of State's Office.

Petition	Sponsors' estimate of signatures collected
Nebraska Medical Cannabis Patient Protection Initiative	114,367
Nebraska Medical Cannabis Regulation Initiative	114,596
Protect Women and Children Constitutional Amendment	205,344
Protect the Right to Abortion Constitutional Amendment	207,608
Paid Sick Leave Initiative *(Returned June 27, 2024)*	138,000

Five additional initiative petitions were authorized for circulation but were not returned for signature verification. Referendum petitions are not due back until July 17, 2024.

"Nebraska law outlines a thorough process for verifying signatures on petition pages," Secretary Bob Evnen said. "County election commissioners and county clerks will be vigilant about ensuring each signature accepted will be that of a Nebraskan currently registered to vote in our state."

Petitions seeking to create a constitutional amendment needed to collect valid signatures from **10%** of registered Nebraska voters. Petitions seeking to create a new state law needed to collect valid signatures from **7%** of registered Nebraska voters. Every petition needed to meet the distribution requirement – valid signatures from at least **5%** of registered voters in 38 counties. The percentages will be based off a voter registration list processed by the Nebraska Secretary of State's Office on July 5, 2024.

It will take several weeks to verify signatures. The Secretary of State's Office will paginate each petition page and distribute petitions to county election offices. Upon receiving petition pages, county election offices will have 40 days to verify signatures. More information on the signature verification process can be found in Nebraska Revised Statute §32-631.

Once the signature verification process is completed, county election offices will send petition pages back to the Secretary of State's Office. The Secretary of State's Office will total the number of valid signatures and determine if constitutional and statutory requirements were met.

More information on the entire petition process can be found in the Nebraska Secretary of State's Initiative and Referendum Petition Guide.

STATE OF NEBRASKA

ROBERT B. EVNEN
SECRETARY OF STATE

For immediate release:
August 30, 2024

Contact:
Jackie Ourada
(402) 471-4086

Secretary of State provides updates on remaining petitions

Secretary of State Bob Evnen says the signatures of the three petitions are nearing the end of the verification process by county election offices.

The three remaining initiative and referendum petitions include:

- Nebraska Medical Cannabis Patient Protection initiative petition,
- Nebraska Medical Cannabis Regulation initiative petition and
- Private Education Scholarship partial referendum.

The Elections Division has not certified the petitions yet. However, the three remaining initiative and referendum petitions have met the 100% signature threshold required for verification and certification, and subsequently, will qualify for the general election ballot once verification and certification has been completed. The Secretary of State's office will release updates once the petitions are certified.

"Our office is providing this update to keep voters informed of where county election offices are in the signature verification process," Secretary Evnen said. "Election workers are checking every voter's signature on the remaining petitions, and we will have petitions verified before the September 13 deadline to certify the November ballot."

Initiative petitions seeking to enact new laws, such as the **Nebraska Medical Cannabis Patient Protection** initiative petition and the **Nebraska Medical Cannabis Regulation** initiative petition, need to collect valid signatures from at least **7%** of registered voters in Nebraska and valid signatures from at least **5%** of registered voters in **38** counties.

The **Nebraska Medical Cannabis Patient Protection initiative petition** has collected **89,051** valid signatures and has met the **5%** distribution requirement in at least **51** counties. The petition has collected enough valid signatures to be certified but has not met the **110%** threshold provided under state law to cease verifying signatures. County election offices are verifying the remaining signatures.

The **Nebraska Medical Cannabis Regulation initiative petition** has collected **89,005** valid signatures and has met the **5%** distribution requirement in at least **51** counties. The petition has collected enough valid signatures to be certified but has not met the **110%** threshold provided under state law to cease verifying signatures. County election offices are verifying the remaining signatures.

Referendum petitions seeking to repeal a new law, such as the **Private Education Scholarship partial referendum**, need to collect valid signatures from at least **5%** of registered voters in Nebraska and valid signatures from at least **5%** of registered voters in **38** counties.

The **Private Education Scholarship partial referendum** has collected **62,042** valid signatures and has met the **5%** distribution requirement in at least **57** counties. The petition has collected enough valid signatures to be certified but has not met the **110%** threshold provided under state law to cease verifying signatures. County election offices are verifying the remaining signatures.

The Nebraska Secretary of State's office must certify the November general election ballot by September 13. All petitions will be processed and the results announced by that date.

Gmail **Andrew La Grone <andrew@lagronelawnebraska.com>**

Public Records Request

Andrew La Grone <andrew@lagronelawnebraska.com> Tue, Sep 3, 2024 at 2:54 PM
To: colleen.byelick@nebraska.gov

Ms. Byelick,

Attached, please find a public records request for Secretary Evnen on behalf of my client, John Kuehn. Let me know if you have any questions.

Sincerely,
Andrew La Grone

--
Andrew La Grone
Attorney | La Grone Law, LLC
(402) 305-1833

Kuehn PR Request Letter_9_3_24.pdf
121K

LA GRONE
LAW, LLC

September 3, 2024

The Honorable Robert Evnen
Secretary of State
1445 K Street, Suite 2300
P.O. Box 94608
Lincoln, NE 68346

Secretary Evnen,

I am writing on behalf of my client, John Kuehn, a citizen of the State of Nebraska. Pursuant to Neb. Rev. Stat. § 84-712(1)(a) and (2), Mr. Kuehn is requesting access to the petition signature pages of the Nebraska Medical Cannabis Patient Protection Initiative petition and the Nebraska Medical Cannabis Regulation Initiative petition for the purpose of inspecting these documents and making copies using his own copying equipment.

You are the custodian of these documents. *See* Neb. Rev. Stat. § 32-1407(1) and Neb. Rev. Stat. § 32-1409. These petition signature pages are public records within the definition of Neb. Rev. Stat. § 84-712.01. They do not fall into a specifically enumerated class of records that can be withheld under Neb. Rev. Stat. § 84-712.05. Therefore, Mr. Kuehn and his representatives have the right to inspect and copy the documents free of charge pursuant to Neb. Rev. Stat. § 84-712(1)(a) and (2).

It is Mr. Kuehn's understanding that the documents may currently be in the possession of county election officials. Further, it is Mr. Kuehn's understanding that you have directed the county election officials not to allow inspection of these documents without your approval.

A lack of possession of the documents does not relieve you of your obligations under the public records statutes. The Nebraska Supreme Court has held, "[s]ection 84-712.01 does not require a citizen to show that a public body has actual possession of a requested record . . . [t]he public's right of access should not depend on where the requested records are physically located." Evertson v. City of Kimball, 278 Neb. 1, 9 (2009).

Therefore, if you are not in possession of these documents, this letter serves as a request that you direct the county election officials to immediately allow inspection and copying of the documents at their respective offices.

However, if you are in possession of these documents, then this letter serves as a request to immediately inspect and copy the documents at your office location where they are present.

4905 F Road, Dunbar, NE 68346
lagronelawnebraska.com
(402) 305-1833

As any documents that you are not currently in possession of may well be returned to your office before Mr. Kuehn's inspection and copying of the documents is complete, then this letter additionally serves as a request to inspect and copy the documents at their new location at that time. However, a response that claims you will allow inspection at your office once the documents are returned there, but not before that time at their present location(s), is insufficient. *Evertson*, 278 Neb. at 9.

Pursuant to Neb. Rev. Stat. § 84-712(4), you must respond to this request by 5 p.m. central standard time on Monday, September 9, 2024.

Please respond to this request via email to andrew@lagronelawnebraska.com.

Sincerely,



Andrew La Grone
La Grone Law, LLC
andrew@lagronelawnebraska.com
(402) 305-1833

Gmail **Andrew La Grone <andrew@lagronelawnebraska.com>**

Public Records Request

Byelick, Colleen <colleen.byelick@nebraska.gov> Wed, Sep 4, 2024 at 4:03 PM
To: "andrew@lagronelawnebraska.com" <andrew@lagronelawnebraska.com>

Dear Mr. La Grone,

This email is regarding your records request received by our office on Tuesday, September 3, 2024. We interpreted your request to be made under the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09. Specifically, you requested the following:

> *access to the petition signature pages of the Nebraska Medical Cannabis Patient Protection Initiative petition and the Nebraska Medical Cannabis Regulation Initiative petition for the purpose of inspecting these documents and making copies using his own copying equipment.*

The petitions you referenced are currently undergoing signature verification. At this time, the petition pages for Douglas, Sarpy, and Lancaster County are currently available for inspection and copying at our Election Division office (301 S. 13th St., Suite 410). Please respond to this email to arrange a date and time for your client to inspect and make copies of the petition pages, so that we can ensure that we have a room available for his use.

Pursuant to Neb. Rev. Stat. § 32-1409, the petition pages for all other counties are still being processed in their respective counties. We anticipate that the earliest practicable date for inspection of those pages is September 11, 2024. We will contact you when those petition pages become available. We do not believe the public records laws require us to allow inspection of the petition pages in the various county election offices. We anticipate that your client will be able to inspect and make copies of those petition pages at our Election Division office.

Pursuant to Neb. Rev. Stat. § 84-712(4), you may choose to modify or prioritize the items within your request in some fashion.

Sincerely,

Colleen Byelick

Chief Deputy/General Counsel

301 S. 13th Street, Suite 410

Lincoln, NE 68508

Nebraska Secretary of State

402-471-8076

From: Andrew La Grone <andrew@lagronelawnebraska.com>
Sent: Tuesday, September 3, 2024 2:54 PM
To: Byelick, Colleen <colleen.byelick@nebraska.gov>
Subject: Public Records Request

You don't often get email from andrew@lagronelawnebraska.com. Learn why this is important

[Quoted text hidden]

Gmail

Andrew La Grone <andrew@lagronelawnebraska.com>

Public Records Request

Byelick, Colleen <colleen.byelick@nebraska.gov> Wed, Sep 4, 2024 at 4:54 PM
To: Andrew La Grone <andrew@lagronelawnebraska.com>
Cc: "Donley, Leslie" <Leslie.Donley@nebraska.gov>

Mr. La Grone,

Your client's representative is welcome to come to our office at 9am to inspect and copy the petition pages. To be clear, we are not denying your client access to public records. However, we are not required to allow inspection of the records at any location requested. Further, pursuant to Neb. Rev. Stat. § 84-712, if a request cannot be fulfilled due to the significant difficulty or the extensiveness of the request, the request may be delayed, and a written explanation provided. You have been provided such a response and explanation.

We are working in good faith to attempt to fulfill your request. We appreciate your cooperation in this matter.

[Quoted text hidden]

Gmail **Andrew La Grone <andrew@lagronelawnebraska.com>**

Public Records Request

Andrew La Grone <andrew@lagronelawnebraska.com> Thu, Sep 5, 2024 at 11:10 AM
To: "Byelick, Colleen" <colleen.byelick@nebraska.gov>

Ms. Byelick,

Regarding the signature pages for the other 90 counties, we agree that it would be desirable to find a resolution to this that does not require my client to pursue his rights in another forum. However, if a resolution cannot be found, we will do so.

Section 32-1409 allows the petition pages and certifications to be delivered from the counties to the Secretary of State by several means. We understand that the means usually used is certified mail due to it being the cheapest option, but in greater Nebraska the reality is this will take 3 business days, which does not provide enough time for citizens to inspect these petitions to determine if a certification challenge is warranted before the ballots are finalized.

My client would be willing to pay for delivery by hand carrier or law enforcement official, both of which are allowed by section 32-1409, provided that the pages are available for inspection tomorrow at your election office. If you could provide us an estimate on the cost of such services as soon as possible, this may be an amicable solution.

We still believe you are obligated to allow inspection and copying of the pages at their current locations. If a solution cannot be found, we will pursue this matter in another forum.

Sincerely,

Andrew La Grone

[Quoted text hidden]

Nebraska Attorney General's Office
Public Records Petition Form

Mike Hilgers
Attorney General

Petitioner Information			
First Name: John		Last Name: Kuehn	
Your Address: 4905 F Road			
City: Dunbar	State: NE	ZIP Code: 68346	County: NE
Home Phone:		Work Phone:	
Email Address: andrew@lagronelawnebraska.com			

Public Body or Official Information			
First Name: Colleen		Last Name: Byelick	
Title: Deputy Secretary of State	Public Body/Official: Secretary of State		
Address: 1445 K Street			
City: Lincoln	State: NE	ZIP Code: 68508	County: Lancaster
Email Address: colleen.byelick@nebraska.gov			

Petition Detail Information

Describe the reasons for your petition. Please be detailed and specific. Attach additional pages if necessary. You must provide a copy of your written request for public records and all correspondence received from the public body or official in response to your request.

See attached. This petition is made on Mr. Kuehn's behalf by Andrew La Grone, Mr. Kuehn's attorney.

This form and supporting documents should be submitted by email, fax, or U.S. Mail

Email: ago.pr-om@nebraska.gov
Fax: 402-471-3297

Nebraska Attorney General's Office
Attention: Public Records Petition
PO BOX 98920
Lincoln, NE 68509

Gmail

Andrew La Grone <andrew@lagronelawnebraska.com>

Public Records Petition

Andrew La Grone <andrew@lagronelawnebraska.com> Thu, Sep 5, 2024 at 3:55 PM
To: ago.pr-om@nebraska.gov

Attorney General Hilgers,

Attached, please find a public records petition on behalf of my client, John Kuehn. All known communications between Mr. Kuehn's representatives and the Secretary of State's office have been included as attachments.

Let me know if you have any questions.

Sincerely,
--
Andrew La Grone
Attorney | La Grone Law, LLC
(402) 305-1833

10 attachments

- **Attachment 1 (Initial Request).pdf** 121K
- **Attachment 5(Byelick Significant Difficulty Email 9_4_24 at 4_54 PM).pdf** 64K
- **Attachment 4 (La Grone Scheduling Inspection Email 9_4_24 at 4_13 PM).pdf** 62K
- **Attachment 2 (La Grone Carrier Email).pdf** 74K
- **Attachment 3 (Byelick Initial Response Email 9_4_24 at 4_03 PM).pdf** 135K
- **Attachment 6 (La Grone Compomise Email 9_5_24 at 11_10 AM).pdf** 63K
- **Attachment 7 (Additional Byelick Compromise Email).pdf** 60K
- **Attachment 8.pdf** 66K
- **Public Records Petition Form.pdf** 190K
- **PR Request AG Petition_Kuehn.pdf** 134K

LA GRONE
LAW, LLC

September 5, 2024

The Honorable Mike Hilgers
Nebraska Attorney General's Office
Attention: Public Record Petition
P.O. Box 98920
Lincoln, NE 68508

Attorney General Hilgers,

My client, John Kuehn, was denied the right to inspect and copy signature pages related to the two medical marijuana petition initiatives in 90 of the 93 counties at the county offices where the pages are currently.

Pursuant to Neb. Rev. Stat. § 84-712.03(1)(b) anyone denied a right granted under sections 84-712 to 84-712.03 may petition the Attorney General for a review of compliance with those statutes. Please accept this as such a petition. Due to timeliness being the main issue raised, we would ask that this petition be considered expeditiously. All known written communications between Mr. Kuehn's representatives and the Secretary of State's office have been included as attachments.

Mr. Kuehn wants to inspect the records for the purpose of rebutting registered voter determinations made pursuant to Neb. Rev. Stat. § 32-1409(1). The Secretary has announced that he will certify ballots for the elections at which the petitions may be considered on Friday, September 13th. An inspection of these records would require sufficient time for Mr. Kuehn to review them to raise any potential signature challenges. Mr. Kuehn's right to inspect and copy the documents within four business days of his original request would be sufficient. Therefore, we ask that you make a determination on September 6th so the September 9th deadline can be effectuated.

Sincerely,

Andrew La Grone
La Grone Law, LLC

4905 F Road, Dunbar, NE 68346
lagronelawnebraska.com
(402) 305-1833

PETITION

There are two questions at issue in this petition. The first is whether Mr. Kuehn has a right to make it. Mr. Kuehn has the right to petition your office because, although the request was not denied in whole, his right to inspect the totality of the records requested within four business days was denied. The second question is, in the case of records not physically present at the custodian's office, whether the custodian can prevent timely inspection of the records by refusing reasonable means for doing so. The Secretary cannot prevent timely inspection by refusing to agree to a reasonable location for inspection and refusing to obtain the documents in a timely manner through reasonable alternative means.

I. Mr. Kuehn has the right to petition the Attorney General's office for a review of the Secretary's decision because his right to inspect the documents within four business days of his original request was unlawfully denied.

Mr. Kuehn has the right to petition the Attorney General's office for the review of the denial of any right granted under sections 84-712 to 84-712.03 to determine whether these sections were complied with. Neb. Rev. Stat. § 84-712.03(1)(b). Mr. Kuehn requested to inspect and copy the petition signature pages of the Nebraska Medical Cannabis Patient Protection Initiative petition and the Nebraska Medical Cannabis Regulation Initiative petition pursuant to section 84-712(1)(a) and (2). Attachment 1. The Secretary admitted that the pages in question are public records and that Mr. Kuehn has the right to inspect them. *See* Attachment 3. However, because the pages are not currently at his office, the Secretary denied Mr. Kuehn's right to inspect them within four business days because he claimed obtaining them by then would cause the Secretary significant difficulty. *See* Attachment 5. In doing so, the Secretary denied Mr. Kuehn's right to inspect the records within four days due to the current location of the records. *See* Evertson v. City of Kimball, 278 Neb. 1, 9 (2009). Because this right was denied, Mr. Kuehn has the right to petition your office for review.

II. The Secretary cannot prevent timely inspection of public records not in his possession by refusing to find a mutually agreeable location for the inspection of records and refusing to obtain the records in a timely manner through other means.

The Secretary cannot prevent timely inspection and copying of public records by refusing to allow inspection of the records until they reach his office after the four-day period allowed by section 84-712(4)(c) when the records could be inspected at their present location or obtained in a timely manner through other means. A citizen's rights under the public records statutes are not dependent on the physical location of the records. *Evertson*, 278 Neb. at 9. Section 84-712(2) allows for the copying of public records with the requestor's own equipment "on the premises of the custodian of the public record or at a location mutually agreed to by the requester and the custodian." Section 84-712(4)(c) requires requests be fulfilled within four business days of the original request unless the request "cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the

extensiveness of the request." Here, the Secretary admits that he must allow the inspection and copying of the records but is refusing to meet his four-day deadline for doing so. *See* Attachment 5. He does not have a reasonable good faith basis for this refusal because he could meet his four day deadline either through allowing inspection and copying of the records at their current locations or by obtaining the records through other reasonable means.

A. The Secretary cannot prevent the timely inspection of records not in his possession by refusing to agree to a reasonable location for their inspection.

Mr. Kuehn could inspect and copy the records at their present location. Secretary Evnen's claim that it would be significantly difficult for him to allow the inspection of records at any location other than his office seeks two write the "location mutually agreed to" language out of section 84-712(2) and the "reasonable good faith" language our of section 84-712(4)(c). The Secretary claims he cannot obtain the records for inspection at his office until September 11th. *See* Attachment 3. Assuming *arguendo* that this is true, inspection could take place within the four-day time frame at the county offices where the records are presently located. The Secretary has refused such an arrangement. *See* Attachment 5.

Such a refusal effectively eliminates any location other than the Secretary's office from consideration for inspection. The records are at the county offices because they were sent there by the Secretary. See Neb. Rev. Stat. § 32-1409. The officials currently in possession of these records are also subject to the public records statutes. See Neb. Rev. Stat. § 84-712.01. There could not be a more reasonable location for the inspection of these records if the Secretary is correct that he cannot obtain the records until September 11th. The Secretary's position that he cannot obtain the records in a timely manner and can refuse to agree to any alternative location for the inspection of records not in his possession effectively eliminates all locations from consideration. This position cannot be reconciled with the plain language of section 84-712(2), the reasonable good faith requirement of section 84-712(4)(c), or the Court's ruling in *Evertson*. Therefore, if the Secretary truly cannot obtain the records in a timely manner, he cannot refuse to allow inspection and copying of the records at their current locations.

B. The Secretary cannot effectively prevent the inspection of records by refusing to obtain them in a timely manner through other reasonable means.

The Secretary could obtain the documents for inspection at his office in a timely manner by other means than certified mail. Section 32-1409 allows the records to be sent back to the Secretary's office "by hand carrier, by use of law enforcement officials, or by certified mail." Neb. Rev. Stat. § 32-1409(2). The Secretary has chosen certified mail. *See* Attachment 6. However, the Secretary has also admitted that he could obtain the records faster through hand carrier or use of law enforcement officials. *See id*. Further, my client has even offered to pay for the additional expenses of securing the documents through one of these faster means. *See id*.

As discussed by the Court in *Evertson*, a custodian of a record is required to obtain the record for inspection and cannot deny inspection on the basis of not having the records in their possession. *Evertson*, 278 Neb. at 9-13. Here, that is the exact reason the Secretary has given for

denying inspection at his office before September 11th. *See* Attachment 5. Even if we accept that a statutorily allowed means of obtaining the records would cause the Secretary significant difficulty due to cost, that is not an issue as Mr. Kuehn has offered to pay the additional costs. Therefore, the Secretary can obtain the records for inspection in a timely manner through other means. Unless he has a lawful excuse for refusing to do so, he is required to. Doing so could not possibly cause him significant difficulties because Mr. Kuehn has offered to pay the additional costs. The extensiveness of the request could not possibly cause the Secretary to be unable to meet the four-day deadline because he is required to do nothing more than direct the counties to send the records by alternative, more timely means. Therefore, Secretary Even must use alternative means to obtain the records in a timely manner because he has no reasonable good faith reason for failing to do so.

III. Conclusion

Mr. Kuehn can submit this petition because his right to inspect and copy public records in a timely manner was denied. Secretary Evnen is required to allow inspection and copying of the requested public records by September 9th. He has refused to do so and has no reasonable good faith basis for claiming doing so would cause him significant difficulty or that the records are so extensive that he could not do so. The records could be inspected and copied at their current locations, or reasonably obtained through other means. Both of these options would allow for timely inspection of the records. Therefore, Secretary Evnen's refusal to allow Mr. Kuehn to inspect and copy these records within the four-day time period required by section 84-712(4)(c) due to the location of the records was a violation of Mr. Kuehn's rights.